

# FEDERAL REGISTER

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**Agencies in this issue—**

Agricultural Stabilization and  
Conservation Service  
Army Department  
Consumer and Marketing Service  
Education Office  
Employment Security Bureau  
Federal Aviation Agency  
Federal Communications Commission  
Federal Maritime Commission  
Federal Power Commission  
Fish and Wildlife Service  
Food and Drug Administration  
Housing and Home Finance Agency  
Internal Revenue Service  
Interstate Commerce Commission  
Labor Department  
Land Management Bureau  
Post Office Department  
Reclamation Bureau  
Treasury Department  
Wage and Hour Division

Detailed list of Contents appears inside.



Volume 78

UNITED STATES  
STATUTES AT LARGE

[88th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1964, the twenty-fourth amendment to the Constitution, and Presidential proclamations. Included is a nu-

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# Contents

## AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

### Rules and Regulations

Domestic beet sugar producing area; 1965 crop:	
California.....	13131
Indiana.....	13126
Minnesota.....	13127
New Mexico.....	13130
Ohio.....	13129
Oregon.....	13125
Mainland cane sugar area; 1965 crop.....	13124

## AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

## ARMY DEPARTMENT

### Rules and Regulations

Records and reports; release of information from Army files.....	13121
--	-------

## CONSUMER AND MARKETING SERVICE

### Rules and Regulations

Administrative and judicial review; retailers and wholesalers.....	13132
Fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon; expenses and rate of assessment.....	13132
Poultry and poultry products; transshipment interpretation.....	13120

### Proposed Rule Making

Grapefruit grown in Arizona and certain parts of California; expenses and rate of assessment.....	13143
Filberts grown in Oregon and Washington; expenses and rate of assessment.....	13143
Milk in Tampa Bay marketing area; decision.....	13143

## DEFENSE DEPARTMENT

See Army Department.

## EDUCATION OFFICE

### Rules and Regulations

Supplementary educational centers and services.....	13138
---	-------

### Notices

Local educational agencies; initial deadline date to file applications.....	13174
---	-------

## EMPLOYMENT SECURITY BUREAU

### Rules and Regulations

Schedules of remuneration.....	13120
--------------------------------	-------

## FEDERAL AVIATION AGENCY

### Rules and Regulations

#### Alterations:

Control zone (3 documents).....	13118, 13119, 13119
Transition area.....	13119
Transition area; designation (2 documents).....	13118, 13119
Control zone and transition area; designation and alteration; correction (2 documents).....	13118
Presence of crewmembers at duty stations.....	13120
Transition area and control area extension; alteration and revocation.....	13119
Transport category airplanes; stability and stalling characteristics.....	13115

### Proposed Rule Making

Change of name of "periodic inspection" to "annual inspection" and clarification of 100-hour inspection requirement.....	13167
Control zone and control area, control area extension, and transition area; proposed alteration, revocation and designation.....	13168
Control zone and transition area; proposed designation.....	13168
Federal airways and reporting points; proposed designation, extension and realignment.....	13169
Scope and applicability of the regulation of non-Federal navigation facilities.....	13169

### Notices

Scripps - Howard Broadcasting Co.; petition for and grant of public hearing.....	13173
Skyline Development Co.; affirmation of determination of no hazard to air navigation.....	13172

## FEDERAL COMMUNICATIONS COMMISSION

### Proposed Rule Making

FM broadcast stations; table of assignments.....	13170
--	-------

### Notices

Establishment of committee for full development of instructional television fixed service.....	13174
<i>Hearings, etc.:</i>	
Southern Radio and Television Co.....	13173
Ultron Systems Corp., and Western Union Telegraph Co.....	13173
West Central Ohio Broadcasters, Inc.....	13173
Yates, Darrell E. (KRBA).....	13173

## FEDERAL MARITIME COMMISSION

### Notices

Agreements filed for approval:	
Gulf/Mediterranean Ports Conference.....	13181
Sea-Land Service and Portnica Shipping Co., Inc.....	13181
Schaefer & Krebs Inc., et al.....	13181
Sociedade Geral De Comercio Industria E. Transportis and Lykes Bros. Steamship Co., Inc.....	13182
United Arab Company for Maritime Transport (Martrans) and North Atlantic Mediterranean Freight Conference.....	13182
Wilhelmsen Line and Swedish American Line.....	13182

## FEDERAL POWER COMMISSION

### Notices

#### *Hearings, etc.:*

Amerada Petroleum Corp., et al.....	13176
Atlantic Refining Co., et al.....	13175
Hamilton Natural Gas Co., Inc., and Panhandle Eastern Pipe Line Co.....	13177
Hope, Alvin et al.....	13177
Natural Gas Pipeline Company of America.....	13177
Northern Natural Gas Co.....	13178
Northern Utilities, Inc.....	13178
Orange and Rockland Utilities, Inc.....	13178
Pacific Power & Light Co.....	13179
Southern Petroleum Exploration, Inc.....	13179
Sunray DX Oil Co., et al.....	13179
Texas Eastern Transmission Corp.....	13180
Westmore Drilling Co., et al.....	13180

## FISH AND WILDLIFE SERVICE

### Rules and Regulations

Swan Lake National Wildlife Refuge, Missouri; hunting; correction.....	13137
--	-------

### Notices

Loan applications:	
Tapp, Kenneth.....	13172
Williford, Jack.....	13172

## FOOD AND DRUG ADMINISTRATION

### Rules and Regulations

Canned concentrated orange juice; confirmation of effective date of order amending identity standard.....	13134
---	-------

(Continued on next page)

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

See Education Office; Food and Drug Administration.

**HOUSING AND HOME FINANCE AGENCY****Notices**

National Voluntary Mortgage Credit Extension Committee; revocation of organization description..... 13183

**INTERIOR DEPARTMENT**

See Fish and Wildlife Service; Land Management Bureau; Reclamation Bureau.

**INTERNAL REVENUE SERVICE****Rules and Regulations**

Income tax; treatment of per-unit retain certificates..... 13134

**INTERSTATE COMMERCE COMMISSION****Notices**

Fourth section applications for relief..... 13185  
Motor carrier temporary authority applications..... 13185

**LABOR DEPARTMENT**

See also Employment Security Bureau; Wage and Hours Division.

**Rules and Regulations**

Labor standards provisions applicable to contracts covering Federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to Contract Work Hours Standards Act); miscellaneous amendments..... 13136

**LAND MANAGEMENT BUREAU****Notices****Consolidation:**

Brigham City and Murray District Offices..... 13171  
New Mexico Grazing Districts No. 1 and No. 7 of Farmington and Albuquerque District Offices..... 13171  
New Mexico Grazing Districts No. 3 and No. 4..... 13171

**POST OFFICE DEPARTMENT****Rules and Regulations**

Customs; treatment at delivery office..... 13137  
Second class; basic qualifications for privileges..... 13137  
Undeliverable mail; obvious value mail..... 13137

**RECLAMATION BUREAU****Notices**

Yuma Irrigation Project, Arizona-California; annual operation and maintenance charges..... 13171

**TREASURY DEPARTMENT**

See also Internal Revenue Service.

**Notices**

Commandant, U.S. Coast Guard; delegation of authority..... 13171

**WAGE AND HOUR DIVISION****Notices**

Certificates authorizing employment of full-time students working outside of school hours in retail or service establishments at special minimum wages..... 13183  
Certificates authorizing employment of learners at special minimum rates..... 13184

## List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1965, and specifies how they are affected.

**6 CFR**

530..... 13120

**7 CFR**

833..... 13124  
850 (6 documents)..... 13125-  
13127, 13129-13131  
924..... 13132  
1603..... 13132

**PROPOSED RULES:**

909..... 13143  
982..... 13143  
1012..... 13143

**14 CFR**

25..... 13115  
71 (9 documents)..... 13118, 13119  
91..... 13120  
121..... 13120  
127..... 13120

**PROPOSED RULES:**

21..... 13167  
43..... 13167  
65..... 13167  
71 (3 documents)..... 13168, 13169  
91..... 13167  
145..... 13167  
171..... 13169

**20 CFR**

614..... 13120

**21 CFR**

27..... 13134

**26 CFR**

1..... 13134

**29 CFR**

5..... 13136

**32 CFR**

518..... 13121

**39 CFR**

22..... 13137  
48..... 13137  
151..... 13137

**45 CFR**

118..... 13138

**47 CFR**

**PROPOSED RULES:**  
73..... 13170

**50 CFR**

32..... 13137

# Rules and Regulations

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Agency

[Docket No. 1987; Amdt. 25-7]

#### PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

##### Stability and Stalling Characteristics Requirements for Transport Category Airplanes

The purpose of this amendment to Part 25 of the Federal Aviation Regulations is to modify certain stability and stalling characteristics requirements applicable to newly certificated transport category airplanes. It primarily deletes stick-fixed requirements and clarifies the stick force-speed relation for static longitudinal stability. For the cruise condition, the amendment reduces allowable control system friction and redefines the applicable speed range over which static stability must be demonstrated. The amendment further provides flight characteristics standards applicable in the event of failure or malfunction of automatic or power-operated flight control devices and, finally, states new lower limit criteria for discontinuing the stall demonstration in airplanes having inherent aerodynamic stall warning.

This action was published as a notice of proposed rule making (29 F.R. 1692) and circulated as Notice 64-6 dated February 4, 1964.

Currently effective Federal Aviation Regulations on this subject are a recodification of former Civil Air Regulations that included Amendment 4b-12 of CAR Part 4b (27 F.R. 2986, Mar. 30, 1962). Following adoption of Amendment 4b-12, the Aerospace Industries Association (AIA) requested reconsideration of the stability requirements there imposed on the grounds that the newly introduced stick-fixed stability requirements dictated design and were unnecessary for minimum safety. Based on these AIA comments and the experience gained subsequent to Amendment 4b-12 in the type certification of turbine-powered transport airplanes, the Agency published Notice 64-6, not only to delete the stick-fixed stability requirements, but also to provide for failure of stability augmentation devices and changes in the stability and stall demonstrations.

Notice 64-6 proposed to amend § 25.21 (formerly CAR § 4b.100) by adding a new paragraph to provide for continued safe flight and landing in the event of single failure in a stability augmentation or other automatic or power-operated device. A number of the comments received related to flight characteristics standards that should be made appli-

cable in the event of such failure. One commentator, Service Technique Aeronautique Section "Etudes Generales" of Paris, France, suggested, with meritorious appeal, that an acceptable level of degraded flight characteristics could be related to the probability of an augmentation device failure. However, due to the lack of statistics on component failure and the resultant effect on flight characteristics, and because the recommendation is beyond the scope of the notice, it cannot be given favorable consideration at the present time.

Two sets of comments submitted in response to proposed § 25.21(e) represent divergent views on standards to be applied when augmentation devices fail. The Airline Pilots Association (ALPA), questioning the reliability and operational safety of stability augmentation devices in general would, in effect, require full compliance with flight characteristics requirements to be demonstrated with all artificial aids inoperative. The AIA would not require compliance with any specific flight characteristics as long as the pilot could continue satisfactory controlled flight and landing. When an augmentation device is built into an airplane in order to meet certain flight requirements, the Agency does not propose that the airplane comply with identical requirements in the event of device failure. At the same time, neither is it the intent to leave the regulation with no meaningful minimum standard to ensure that flight characteristics following failure are not degraded to an extent affecting safety of operations. The Agency must, therefore, reject that recommendation that would tend to subvert the purpose of the proposal by setting no compliance minimum. Insofar as the other comments were based upon unreliability of specific devices, the recommendations that followed are beyond the scope of the present rule-making action since unreliability affecting airworthiness would be dealt with by corrective action as prescribed under other regulations.

Reconsideration in the light of the various comments has clarified the importance of controllability characteristics notwithstanding the failure of stability augmentation or its secondary effect on other flight characteristics. Furthermore, because the word "satisfactory", as used in the notice, erroneously suggested continued compliance with all airworthiness requirements following single device failure, § 25.21(e) has been further amended to distinguish trim, stability, and stalling from controllability characteristics. In the event of single failure of an augmentation device, new separate subparagraphs now require safe controllability at the critical limits, full controllability and maneuverability compliance within a reduced, i.e., practical, operational flight envelope,

and permit some degradation in the quality of the trim, stability, and stall flight characteristics.

Section 25.21(e) has been further amended by adding the word "malfunction" to make clear that it applies to the overly active (runaway) as well as to the inoperative devices.

The amendment to § 25.21 being made in this rule-making action concerns failures and malfunctions of stability and control devices. ALPA has submitted a petition dated April 16, 1965, that would, in effect, prohibit automatic devices that take over or directly act on the controls. While the new ALPA proposal relates to the present action, it was received after the closing date for comments on Notice 64-6 and goes beyond the scope of the notice and, therefore, will be given separate study to determine if further rule-making action is warranted.

In view of the purpose of the amendment to remove the requirement for stick-fixed stability from the regulations, the general stability section, § 25.171 (formerly CAR § 4b.150) is amended as proposed in the notice to include a provision for control feel (static stability).

Notice 64-6 proposed to amend the static longitudinal stability requirements of § 25.173 (formerly CAR § 4b.151) by deleting the elevator control surface displacement requirements from the introduction and paragraph (a), by reducing the cruising condition free return speed range contained in paragraph (b), by redefining the stick force gradient expressed in paragraph (c), and by adding a new paragraph (d) to clarify the intent of the regulations with respect to acceptable characteristics within the allowable free return airspeed range.

No comments were received on the proposed revision to § 25.173(a) and the paragraph is amended as proposed.

Because it is possible for control system friction effects to mask stability over much of the presently required speed range associated with cruise condition static longitudinal stability, Notice 64-6 proposed to amend § 25.173(b) by reducing the free return speed range from 10 percent to the lesser of 5 percent or 20 knots. With considerable justification, the AIA disagreed with this change on the grounds that there is no evidence to dictate a change and that no safety problem is involved. In support of its position, the commentator listed 8 transport category airplanes each having completely satisfactory flight characteristics, but 4 of which exceeded 5 percent. Seven of these airplanes, however, were below 6.7 percent, and the flight test data for the eighth airplane, which showed in excess of 8 percent on both push and pull sides, appears not applicable to the cruise configuration. Recognizing that the free return speed range covers various effects other than friction, and that the pro-

posed lower numerical value may represent a too-strict limit, the Agency concurs that the 5 percent or 20-knot limit is unnecessarily severe. The Agency does not agree, however, that no change is warranted. Balancing the underlying intent behind the notice, i.e., to unmask stability by reducing friction, against the well-stated considerations advanced by the AIA, and pending further experience, § 25.173(b) is amended to specify a cruise condition free return speed range of 7.5 percent.

The present § 25.173(c) quantitatively defines stick force characteristic requirements that, prior to Amendment 4b-12, were stated only in qualitative terms. On the basis of experience indicating that a minimum gradient of 1 pound per 6 knots defines a satisfactory degree of static longitudinal stability, Notice 64-6 merely proposed to state this gradient as an average that would apply to the applicable speed ranges of the four flight situations of § 25.175.

The AIA submitted a comment in response to the notice, recommending that the average slope of the curve be stable without specifying a gradient. The AIA reasoning was that satisfactory and safe flight characteristics are not a function of the magnitude of the force gradient since force gradients are not the determining factor in speed changes, and it is sufficient merely to specify that no instability exists. However, the AIA recommendation cannot be accepted because it would allow low magnitude stick forces over a large speed range so that the pilot might not readily detect speed changes by "stick feel" even at speeds beyond the friction band range. The AIA recommendation would also permit an unstable slope of the stick force curve in the applicable speed range as more fully discussed later under § 25.175.

In view of the foregoing, § 25.173(c) is amended as proposed in the notice to provide that the average gradient of the stable slope on the stick force curve be not less than 1 pound per 6 knots.

Service Technique Aeronautique, while expressing agreement with the proposed § 25.173 (b) and (c), stated that additional requirements are needed to eliminate such control system abnormalities as friction, play, and elasticity, which are annoying to the pilot and make precise trimming of the airplane difficult. Such limitations have found favor in various U.S. and foreign military and civil air regulations. The commentator further recommended that the stick force gradient be correlated to the airplane's limiting load factor so that the latter would not be exceeded upon release of the control stick in an untrimmed condition. While both points appear valid and the recommendations have merit, the matters have not been a problem in the certification of transport category airplanes. Since the recommendations go beyond the scope of the notice, the Agency cannot consider them for inclusion in the present rule-making action.

Section 25.173 is further amended as substantively proposed by adding a new

paragraph (d) that makes it acceptable for an airplane to settle on off-trim speeds within the friction range provided exceptional attention on the part of the pilot is not required to maintain desired trim speed and altitude.

Demonstration of static longitudinal stability requirements for the climb, cruise, approach, and landing conditions, as contained in § 25.175 (a) through (d) (formerly CAR §§ 4b.152-155), have been amended to delete reference to the elevator angle curve. This action meets the initial objection of the AIA that the present regulation dictates design and furthers the purpose of the amendment to delete requirements for stick-fixed stability.

Notice 64-6 proposed to amend § 25.175 (b) (formerly CAR § 4b.155) by redefining the cruising condition speed range within which the stick force curve must have a stable slope, and by further limiting the speed range to that attainable without exceeding a stick force of  $\pm 50$  pounds. In response to the Notice, the AIA recommended that the regulation further specify an "average" stable slope for each of the three cruising conditions in order to be consistent with the wording of § 25.173(c). There is no inconsistency, however, between the provisions of § 25.173(c) and § 25.175(b). As stated before, the former section describes the average stick force gradient (or degree of stability) in numerical terms, that is necessary to be designed into an airplane over the applicable speed range. The latter section states the further requirement, unchanged from the current regulation, that the stick force speed curve have a stable slope at all points within the applicable speed range. The two sections state different requirements, each of which must be met. The commentator's suggestion would not insure compliance with the "local" stable slope requirement of § 25.175(b) and, therefore, cannot be accepted.

The AIA also recommended that the proposed speed range over which § 25.175 (b) is applicable, be the lesser rather than the greater of the two listed alternatives. It was the commentator's reasoning that since the free return range had been added to the speed range, it would be reasonable to use the smaller value. However, since the intent was to insure stability demonstrations over a reasonably adequate speed range beyond the friction band, the Agency believes it necessary to specify the greater of the values, and therefore must reject the recommendation.

In response to the original AIA petition, Notice 64-6 proposed to limit the static longitudinal stability demonstration of § 25.175(b) to a speed range in which the control force does not exceed 50 pounds in place of the present regulation that limits the stick force to 50 pounds over a prescribed speed range. No comments were addressed to this proposal and the section is amended accordingly.

Agency reconsideration of the proposed § 25.175(b)(3) (formerly CAR § 4b.155(c)) has indicated a void in the requirement for demonstrating stability

in the speed range between trim speed and the landing gear extended speed ( $V_{LE}$ ) when the airplane is trimmed below the  $V_{LE}$  speed. There was no intent in the proposal to change the currently effective requirement for demonstrating stability up to the  $V_{LE}$  speed. In addition, the subparagraph was inconsistent with § 25.175(b) (1) and (2) prescribing speed ranges that take into account the friction band. The reasons for demonstrating stability over a reasonable speed range beyond the friction band, and for adding free return speed range to the numerically-specified speed range, are as equally applicable to the landing gear extended as to the landing gear retracted conditions. Accordingly, § 25.175(b) (3) is further amended to eliminate the deficiencies noted and to make it consistent with the other portions of the section.

The proposed change to § 25.201(c) (2) (formerly CAR § 4b.160(c)(2)) would amend the exception clause to allow discontinuance of the stall demonstration when the magnitude and severity of an unmistakable inherent aerodynamic warning becomes a strong and effective deterrent to further speed reduction. The AIA submitted comments in opposition to this change, contending that it would reduce the level of safety provided by the present regulation. It was the AIA position that deletion of cross reference to § 25.207, which precludes unsatisfactory characteristics between stall warning and full stall, would allow declaration of the stall in or on the edge of pitchup, wing drop, etc., so that margins would not be defined between speeds to which an airplane is exposed in training and possible uncontrollability. The Agency, however, is unable to agree with the reasoning of the commentator since the criteria for determination of an acceptable unmistakable inherent aerodynamic warning have clearly been strengthened in the proposal to require a deliberate and extensive pilot effort to reduce the speed below that at which the limiting warning occurs. Furthermore, the § 25.201 proposal does not relieve compliance with § 25.207 in regard to the stall warning margin as the AIA comments seemingly imply. The Agency believes the proposed changes to § 25.201 will increase safety, and the section is amended accordingly.

In this connection, § 25.207(c) requires the stall warning to begin at a speed exceeding the stalling speed by 7 percent or some lesser margin under stated conditions. A question arises as to whether, under the amended exception clause of § 25.201(c) (2), § 25.207(c) requires the stall warning to begin at a speed exceeding the speed at which the warning becomes a strong and effective deterrent to further speed reduction. To indicate that the stall warning margin must exist above the speed demonstrated under the exception clause of § 25.201(c) (2), § 25.207(c) has been amended to clarify the stalling speed on which the margin is to be based.

Safe Flight Instrument Corporation, referencing an apparent inconsistency between § 25.201(c) (2) and § 25.207, rec-

commended that the exception clause of the former be further amended to allow artificial stall warning as an alternative to inherent aerodynamic warning to deter further speed reduction during an approach to the stall. It is assumed the "inconsistency" cited refers to the wording of § 25.207(b) that allows use of a device giving clearly distinguishable indications, whereas § 25.201(c) (2) makes no provision for artificial warning to terminate the stall demonstration. The commentator's allegation of inconsistency, however, fails to distinguish the two sections and is not well taken. Section 25.207 requires a stall warning at a margin above stall speed but optionally allows use of a device for this purpose because inherent warning may not occur at the higher speed. Section 25.201, on the other hand, requires demonstration of "inherent" airplane characteristics at the lowest speeds possible in operations. To limit the scope of the demonstration by use of artificial warning devices would be clearly incompatible with the purpose of the section. The Agency finds no inconsistencies in the two sections and therefore cannot accept the recommendation of this commentator.

A number of nonsubstantive changes have been made to clarify wording and correct inadvertent editorial omissions occurring in the notice.

Interested persons have been afforded an opportunity to participate in the making of this amendment. All relevant matter submitted has been fully considered.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1422)

In consideration of the foregoing, Part 25 of the Federal Aviation Regulations is amended, effective November 14, 1965, as follows:

1. Section 25.21 is amended by adding a new paragraph (e) to read as follows:

§ 25.21 Proof of compliance.

(e) If compliance with the flight characteristics requirements is dependent upon a stability augmentation device, or upon any other automatic or power-operated device, it must be shown, after any single failure or malfunction of such device in flight, that—

(1) The airplane is safely controllable when the failure or malfunction occurs at any speed or altitude within the approved operating limitations that is critical for the type of failure being considered;

(2) The controllability and maneuverability requirements of this subpart are met within a practical operational flight envelope (for example, speeds, altitudes, normal accelerations, and airplane configurations); and

(3) The trim, stability, and stall characteristics are not impaired below a level needed to permit continued safe flight and landing.

2. The second sentence of § 25.171 is amended by inserting the words "and

control feel (static stability)" immediately after the words "suitable stability".

3. Section 25.173 is amended to read as follows:

§ 25.173 Static longitudinal stability.

Under the conditions specified in § 25.175, the characteristics of the elevator control forces (including friction) must be as follow:

(a) A pull must be required to obtain and maintain speeds below the specified trim speed, and a push must be required to obtain and maintain speeds above the specified trim speed. This must be shown at any speed that can be obtained except speeds higher than the landing gear or wing flap operating limit speeds or  $V_{FC}/M_{FC}$ , whichever is appropriate, or lower than the minimum speed for steady unstalled flight.

(b) The airspeed must return to within 10 percent of the original trim speed for the climb, approach, and landing conditions specified in § 25.175 (a), (c), and (d), and must return to within 7.5 percent of the original trim speed for the cruising condition specified in § 25.175(b), when the control force is slowly released from any speed within the range specified in paragraph (a) of this section.

(c) The average gradient of the stable slope of the stick force versus speed curve may not be less than 1 pound for each 6 knots.

(d) Within the free return speed range specified in paragraph (b) of this section, it is permissible for the airplane, without control forces, to stabilize on speeds above or below the desired trim speeds if exceptional attention on the part of the pilot is not required to return to and maintain the desired trim speed and altitude.

4. The first sentence of paragraphs (a), (c), and (d) of § 25.175 is amended by striking out the words "and, if required by § 25.173(a), the elevator angle curve must have stable slopes" and inserting the words "must have a stable slope" in place thereof.

5. Section 25.175(b) is amended to read as follows:

§ 25.175 Demonstration of static longitudinal stability.

(b) *Cruise.* Static longitudinal stability must be shown in the cruise condition as follows:

(1) With the landing gear retracted at high speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than  $1.4 V_{S1}$ , nor speeds greater than  $V_{FC}/M_{FC}$ , nor speeds that require a stick force of more than 50 pounds), with—

(i) The wing flaps retracted;

(ii) The center of gravity in the most adverse position (see § 25.27);

(iii) The most critical weight between the maximum takeoff and maximum landing weights;

(iv) 75 percent of maximum continuous power for reciprocating engines or, for turbine engines, the maximum cruising power selected by the applicant as an operating limitation (see § 25.1521), except that the power need not exceed that required at  $V_{MO}/M_{MO}$ ; and

(v) The airplane trimmed for level flight with the power required in subparagraph (iv) above.

(2) With the landing gear retracted at low speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than  $1.4 V_{S1}$ , nor speeds greater than the minimum speed of the applicable speed range prescribed in subparagraph (1), nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flaps, center of gravity position, and weight as specified in subparagraph (1) of this paragraph;

(ii) Power required for level flight at a speed equal to  $\frac{V_{MO} + 1.4 V_{S1}}{2}$ ; and

(iii) The airplane trimmed for level flight with the power required in subparagraph (ii) above.

(3) With the landing gear extended, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than  $1.4 V_{S1}$ , nor speeds greater than  $V_{LE}$ , nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flap, center of gravity position, and weight as specified in subparagraph (1);

ous power for reciprocating engines or, for turbine engines, the maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required for level flight at  $V_{LE}$ ; and

(ii) 75 percent of maximum continuous power for reciprocating engines or, for turbine engines, the maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required for level flight with the power required in subparagraph (ii) above.

6. Section 25.201(c) (2) is amended to read as follows:

§ 25.201 Stall demonstration.

(c) . . . . .  
(2) The airplane is considered stalled when, at an angle of attack measurably greater than that for maximum lift, the inherent flight characteristics give a clear and distinctive indication to the pilot that the airplane is stalled, except that for airplanes demonstrating unmistakable inherent aerodynamic warning, associated with the stall in all required

configurations, of a magnitude and severity that is a strong and effective deterrent to further speed reduction, the speed need not be reduced below this value. Typical indications of a stall are a nose-down pitch, or a roll, that cannot be readily arrested, or, if clear enough, a loss of control effectiveness, an abrupt change in control force or motion, characteristic buffeting, or a distinctive vibration of the pilot's controls.

7. Section 25.207(c) is amended by inserting the parenthetical expression "(i.e., the speed at which the airplane stalls or the minimum speed demonstrated, whichever is applicable, under the provisions of § 25.201(c)(2))" immediately after the words "The stall warning must begin at a speed exceeding the stalling speed".

Issued in Washington, D.C., on October 8, 1965.

WILLIAM F. MCKEE,  
Administrator.

[F.R. Doc. 65-10983; Filed, Oct. 14, 1965;  
8:45 a.m.]

[Airspace Docket No. 65-CE-59]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Control Zone and Alteration of Transition Area; Correction

On September 1, 1965, an amendment to Part 71 of the Federal Aviation Regulations was published in the FEDERAL REGISTER (30 F.R. 11209) designating a control zone and altering a transition area in the Manitowoc, Wis., terminal area.

This amendment stated that the control zone and transition area were to become effective 0001 e.s.t., December 9, 1965. The effective date of these airspace designations was based on the completion date for the Manitowoc VOR. It has now been determined that the Manitowoc VOR is not scheduled for completion until January 6, 1966. It is therefore necessary to change the effective date of the final rule from December 9, 1965, until January 6, 1966.

Since 30 days will elapse from the time of publication of the rule, as amended, until its effective date, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, Airspace Docket No. 65-CE-59 (30 F.R. 11209) is amended as follows:

"Effective 0001 e.s.t., December 9, 1965" is deleted and "Effective 0001 e.s.t., January 6, 1966" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 4, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10982; Filed, Oct. 14, 1965;  
8:45 a.m.]

[Airspace Docket No. 65-CE-78]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Control Zone and Alteration of Transition Areas; Correction

On October 5, 1965, an amendment to Part 71 of the Federal Aviation Regulations was published in the FEDERAL REGISTER (30 F.R. 12661) designating a control zone and altering transition areas in the Bible Grove, Ill., and Mattoon, Ill., terminal areas.

This amendment stated that the control zone and transition areas were to become effective December 9, 1965. The effective date of these airspace designations was based on the completion date for the Mattoon VOR. It has now been determined that the Mattoon VOR is not scheduled for completion until January 6, 1966. It is therefore necessary to change the effective date of the final rule from December 9, 1965, until January 6, 1966.

Since 30 days will elapse from the time of publication of the rule, as amended, until its effective date, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, Airspace Docket No. 65-CE-78 (30 F.R. 12661) is amended as follows:

"Effective 0001 e.s.t., December 9, 1965" is deleted and "Effective 0001 e.s.t., January 6, 1966" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 5, 1965.

DONALD S. KING,  
Acting Director,  
Central Region.

[F.R. Doc. 65-10984; Filed, Oct. 14, 1965;  
8:45 a.m.]

[Airspace Docket No. 65-CE-129]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Saginaw, Mich., control zone.

The Federal Aviation Agency is planning to decommission the Saginaw, Mich., L/MF radio beacon on or about December 9, 1965. Inasmuch as the Saginaw, Mich., control zone is presently designated, in part, with reference to this radio beacon, an amendment of the control zone is necessary to reflect the decommissioning of the Saginaw L/MF radio beacon. This alteration will eliminate one extension to the existing control zone.

Inasmuch as this amendment is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be-

come effective without regard to the 30-day statutory period.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

In § 71.171 (29 F.R. 17581) the Saginaw, Mich., control zone is amended to read:

SAGINAW, MICH.

Within a 5-mile radius of Tri-City Airport (latitude 43°31'54" N., longitude 84°04'54" W.) and within 2 miles each side of the Saginaw VOR 235°, 310° and 035° radials extending from the 5-mile radius zone to 8 miles southwest, northwest, and northeast of the VOR.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 4, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10985; Filed, Oct. 14, 1965;  
8:45 a.m.]

[Airspace Docket No. 65-CE-96]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Transition Area

On August 6, 1965, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (30 F.R. 9829) stating that the Federal Aviation Agency proposed to establish controlled airspace in the Willmar, Minnesota, terminal area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following transition area is added:

WILLMAR, MINNESOTA

That airspace extending upward from 700 feet above the surface within 5 miles N and 8 miles S of the 104° and 284° bearings from Willmar, Minnesota, Municipal Airport (Lat. 45°06'52" N., Long. 95°05'11" W.), extending from 7 miles E to 13 miles W of the airport.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 4, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10986; Filed, Oct. 14, 1965;  
8:45 a.m.]

[Airspace Docket No. 65-CE-132]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regula-

tions is to provide for a change in the hours of designation of the Kansas City, Mo., Mid Continent International Airport control zone.

The Kansas City, Mo., Mid Continent International Airport control zone is presently designated as follows:

Within a 5-mile radius of Mid Continent Airport (latitude 39°18'05" N., longitude 94°43'36" W.). This control zone is effective from 0700 to 2300 hours local time daily and during specific dates and times established in advance by a Notice to Airmen.

The Federal Aviation Agency plans to man and operate the Mid Continent International Airport control tower twenty-four (24) hours daily, commencing November 1, 1965, in order to provide complete Air Traffic Control services as they are required without the need for the issuance of a Notice to Airmen.

Inasmuch as this change is, in fact, minor in nature and is in the interest of safety, the Administrator finds that notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as set forth below:

In § 71.171 (29 F.R. 17581) the Kansas City, Mo., Mid Continent International Airport, control zone is amended to read:

Kansas City, Mo. (Mid Continent International Airport): Within a 5-mile radius of Mid Continent Airport (latitude 39°18'05" N., longitude 94°43'36" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 1, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10987; Filed, Oct. 14, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WE-81]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Control Zone

On August 7, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 9884) stating that the Federal Aviation Agency proposed to alter the Concord, Calif., control zone.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Comments were favorable.

Subsequent to the publication of the notice, the FAA found it necessary to revise the coordinates of the Concord, Calif., new VOR from latitude 38°02'44" N., longitude 122°02'34" W. to latitude 38°02'42" N., longitude 122°02'38" W. Additionally, it was found necessary to revise the radial, upon which the control zone extension is based, from 190° to 188°. As these changes are minor in nature, the description of the control zone is amended accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective December 9, 1965, as hereinafter set forth.

In § 71.171 (30 F.R. 8827), the Concord, Calif., control zone is amended to read:

CONCORD, CALIF.

Within a 3-mile radius of Buchanan Field, Concord, Calif. (latitude 37°59'20" N., longitude 122°03'20" W.), within 2 miles each side of the Concord VOR 188° radial extending from the 3-mile radius zone to the VOR, effective from 0700 to 2300 hours, local time daily.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on October 7, 1965.

LEE E. WARREN,  
Acting Director,  
Western Region.

[F.R. Doc. 65-10988; Filed, Oct. 14, 1965; 8:45 a.m.]

[Airspace Docket No. 65-CE-100]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Transition Area

On August 10, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 8956) stating that the Federal Aviation Agency proposed to alter controlled airspace in the Flint, Mich., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the Flint, Mich., transition area is amended to read:

FLINT, MICH.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Flint VOR, within 5 miles north and 8 miles south of the Flint ILS localizer west course, extending from the 12-mile radius area to 12 miles west of the OM; and within a 4-mile radius of Owosso City Airport, Owosso, Mich. (latitude 42°59'30" N., longitude 84°08'00" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the south by latitude 42°46'00" N., on the east by the east boundary of V-42 east and longitude 83°30'00" W., on the north by latitude 43°16'00" N., and on the west by longitude 84°05'00" W.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 4, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10989; Filed, Oct. 14, 1965; 8:45 a.m.]

[Airspace Docket No. 65-CE-103]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Transition Area

On August 19, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10297) stating that the Federal Aviation Agency proposed to designate a transition area at Charles City, Iowa.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following is added:

CHARLES CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Charles City, Iowa, Municipal Airport (latitude 43°04'25" N., longitude 92°36'35" W.) and within 2 miles each side of the 313° bearing from the airport, extending from the 5-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the 313° bearing from the airport, extending from the airport to 12 miles northwest of the airport excluding that portion which overlies the Leroy, Iowa, transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 4, 1965.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 65-10990; Filed, Oct. 14, 1965; 8:45 a.m.]

[Airspace Docket No. 65-SW-25]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Transition Area and Revocation of Control Area Extension

On July 9, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 8690) stating that the Federal Aviation Agency proposed to alter the Bartlesville, Okla., transition area and revoke the Bartlesville, Okla., control area extension.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

1. In § 71.181 (30 F.R. 6682), the Bartlesville, Okla., transition area is amended to read:

## BARTLESVILLE, OKLA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Phillips Airport (latitude 36°45'45" N., longitude 96°00'30" W.); and within 2 miles each side of the Bartlesville VOR 355° radial, extending from the 8-mile radius area to 8 miles north of the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles east and 8 miles west of the Bartlesville VOR 355° radial extending from the VOR to 13 miles north of the VOR; and within 5 miles each side of the Bartlesville VOR 184° radial, extending from the VOR to 18 miles south excluding the portion within the Tulsa, Okla., transition area.

2. In § 71.165 (29 F.R. 17558) the Bartlesville, Okla., control area extension is revoked.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on October 6, 1965.

A. L. COULTER,  
Acting Director,  
Southwest Region.

[F.R. Doc. 65-10991; Filed, Oct. 14, 1965;  
8:46 a.m.]

[Docket No. 6967; Amdt. Nos. 91-24, 121-12,  
127-3]

### PART 91—GENERAL OPERATING AND FLIGHT RULES

### PART 121—CERTIFICATION AND OPERATIONS: AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

### PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

#### Presence of Crewmembers at Duty Stations

The purpose of this amendment is to clarify the present requirements of Parts 91, 121, and 127 of the Federal Aviation Regulations relating to the presence of flight crewmembers at the controls of the aircraft during flight time.

As presently written, the rules prescribe that each required flight crewmember on flight deck duty be present at his station while the aircraft is taking off or landing, and while it is en route unless his absence is necessary for the performance of duties in connection with the operation of the aircraft.

Since the adoption of this rule, the Agency has endeavored to make it clear that flight crewmembers' physical alertness and comfort are necessary for the performance of duties in connection with the operation of the aircraft, within the meaning of the rule. There have, however, been occasional misunderstandings of this intent. For this reason the Agency considers that the safety purposes of the present regulation would better be achieved by amending the regulations specifically to provide for the necessary absence of crewmembers from their duty stations when required for physical alertness and comfort.

For the foregoing reasons it is determined that notice and public rule-making procedures are unnecessary and impractical in the case of this amendment and that good cause exists for making it effective within less than 30 days.

In consideration of the foregoing, effective October 5, 1965—

(1) Section 91.7(a) of the Federal Aviation Regulations is amended by inserting the words "or in connection with his physiological needs" immediately before the semicolon; and

(2) Sections 121.543 and 127.207 of the Federal Aviation Regulations are each amended by inserting the words "or in connection with his physiological needs" immediately before the period at the end of the first sentence thereof.

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a) and 1421)

Issued in Washington, D.C., on October 8, 1965.

WILLIAM F. MCKEE,  
Administrator.

[F.R. Doc. 65-10992; Filed, Oct. 14, 1965;  
8:46 a.m.]

## Title 20—EMPLOYEES' BENEFITS

### Chapter V—Bureau of Employment Security, Department of Labor

### PART 614—REGULATIONS TO IMPLEMENT THE EX-SERVICEMEN'S UNEMPLOYMENT COMPENSATION PROGRAM UNDER TITLE XV OF THE SOCIAL SECURITY ACT, AS AMENDED

#### Schedules of Remuneration

The enactment of an amendment to the Uniformed Services Pay Act of 1963 (P.L. 89-132, 79 Stat. 545) makes it necessary to amend 20 CFR Part 614.17 which contains the schedule of remuneration for each pay grade of ex-servicemen for use in the administration of the Ex-Servicemen's Unemployment Compensation Program.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) which require notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable because this rule relates to public benefits. I do not believe such procedure will serve a useful purpose here. Accordingly, this amendment shall become effective immediately.

Therefore, under the authority contained in section 1509, Title XV of the Social Security Act, as amended (68 Stat. 1135, 42 U.S.C. 1369) and section 1511(c), Title XV of the Social Security Act, as amended (72 Stat. 1088, 42 U.S.C. 1371), I hereby amend 20 CFR 614.17 to add a new paragraph (d) to read as follows:

#### § 614.17 Schedule of remuneration.

(d) The schedule provided in this paragraph is applicable with respect to a

first claim for compensation under the Ex-Servicemen's Unemployment Compensation Act of 1958 filed on or after November 1, 1965.

Pay grades	Monthly rate	
	With 2 years of service or less	With over 2 years of service
1. Commissioned officer:		
0-10.....	\$1,658	\$2,216
0-9.....	1,500	1,988
0-8.....	1,385	1,830
0-7.....	1,198	1,619
0-6.....	927	1,299
0-5.....	778	1,179
0-4.....	690	1,011
0-3.....	633	946
0-2.....	534	663
0-1.....	476	613
2. Warrant officer:		
W-4.....	655	922
W-3.....	604	798
W-2.....	543	695
W-1.....	475	619
3. Enlisted personnel:		
E-9.....		794
E-8.....		660
E-7.....	460	613
E-6.....	415	543
E-5.....	376	478
E-4.....	329	398
E-3.....	266	302
E-2.....	243	290
E-1.....	226	239

(42 U.S.C. 1369, 1371)

Signed at Washington, D.C., this 11th day of October 1965.

W. WILLARD WIRTZ,  
Secretary of Labor.

[F.R. Doc. 65-11029; Filed, Oct. 14, 1965;  
8:49 a.m.]

## Title 6—AGRICULTURAL CREDIT

### Chapter V—Consumer and Marketing Service, Department of Agriculture

#### SUBCHAPTER B—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

### PART 530—POULTRY AND POULTRY PRODUCTS

#### Subpart—Announcement PY-29, "Chicken Export Payment Program—GMX 73a"

##### TRANSSHIPMENT; INTERPRETATION

Interpretation of § 530.16 of this subpart is set forth in the note below.

NOTE: When the exporter is also the foreign buyer or importer, i.e., the same person or legal entity, he can satisfy the requirements of this section by having a written agreement between the exporting office and the importing office containing the representation and agreement required by this section.

Approved: October 8, 1965.

S. R. SMITH,  
Administrator.

[F.R. Doc. 65-11055; Filed, Oct. 14, 1965;  
8:51 a.m.]

## Title 32—NATIONAL DEFENSE

### Chapter V—Department of the Army

#### SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

### PART 518—RECORDS AND REPORTS

#### Release of Information From Army Files

Sections 518.1 through 518.4 are revised to read as follows:

##### § 518.1 Scope and authority.

(a) *General policies.* (1) The Secretary of the Army has charge and control of all records and papers of the Army. It is his responsibility to insure that these documents, and the information contained therein, are utilized in a manner which best serves the public interest. The release of information therefrom outside of the Department of the Army is a matter to be determined by the Secretary or by persons authorized to act in his behalf. No subordinate in the Department of the Army has authority to release any Army records, or copies, extracts or summaries thereof, or any information therefrom, except as provided in §§ 518.1-518.4, and the regulations cited herein.

(2) Subject to the restrictions of §§ 518.1-518.4, unclassified records may be released when such release is consistent with security requirements and the public interest. Certain missions of the Army require the release of information or records to members of the public or to specific individuals or agencies. The release of such information, and other unclassified information except as restricted by §§ 518.1-518.4, is consistent with the public interest provided the request is not so burdensome as to interfere materially with the operations of the Department of the Army. In determining whether a request is burdensome, the availability of the information from other sources, such as the FEDERAL REGISTER or Code of Federal Regulations, will be considered.

(3) It is the policy of the Department of the Army to process and act upon all requests fairly, completely, and expeditiously. Delay will not be permitted even though requests appear to be minor in nature, for in many cases important personal or property rights are involved. Accordingly, all commanders will insure that requests for records or information are acted upon in the following manner:

(i) *Expediently;* all measures will be taken to insure that action is taken promptly.

(ii) *Responsively;* every reasonable attempt will be made to analyze the request properly. If it is not clear, prompt action will be taken to secure a clarification from the requesting party. This action is frequently necessary because the requesting party is not familiar with military procedures.

(iii) *Completely;* if it appears that a request must be denied in whole or in part because of limitations imposed by existing regulations upon the release of information, inquiry will be made to as-

certain if that inquiry can be satisfied from the contents of any other record which is releasable.

(iv) In order to expedite the disposition of requests, questions as to legality of the release of information should be referred initially to the judge advocate or to the legal officer of the unit or installation.

(b) *Scope.* Sections 518.1-518.4 apply to all requests originating within the Federal Government except those from individuals or agencies of the Executive Branch whose official duties entitle them to secure the records; to requests from State, local, and foreign governments; and to requests from private individuals, organizations, and firms. Sections 518.1-518.4 set forth certain basic principles which apply to and govern release of all types of Army records. Additional policies and procedures for release of records or information therefrom including releases to individuals or agencies of the Executive Branch of the Government, are set forth in the regulation cited.

(1) Releases to newspapers and other information media—AR 360-5.

(2) Releases of information in connection with litigation—AR 27-5 (§ 516.3).

(3) Records pertaining to disciplinary actions—AR 345-60.

(4) Release of information in connection with General Accounting Office comprehensive audits—AR 36-20.

(5) Release of information relating to confinement of persons presently or formerly confined in the United States disciplinary barracks (paragraph 127, AR 210-170).

(6) Release of information from—

(i) Inspector general reports—AR 20-1.

(ii) Aircraft accident investigations—AR 95-30.

(iii) Criminal investigation reports—AR 195-10.

(iv) Safety reports and records—AR 385-40.

(v) Medical records and files in Army Records Centers—AR 345-200.

(vi) Claims reports—AR 25-20.

(vii) Military personnel records—AR 640-12 (§ 518.7).

(viii) Civilian personnel records—CPR's C1, M1, R1; Federal Personnel Manual, Chap. 339.

(7) Release of information pertaining to procurement matters—Armed Services Procurement Regulations (ASPR) and the Army Procurement Procedure (APP) (Subchapter A, chapter I of this title and Subchapter G of this chapter). See for example §§ 1.316, 1.907, Subpart J of Part 1 (particularly §§ 1.1004 and 1.1006), §§ 2.205-5, 2.210, 2.408, 2.503-1, 3.506 and 3.507 of this title, and §§ 591-352, 591.1004, 592.250, and 593.301(e) of this chapter.

(8) Release of information pertaining to debarment and suspension of contractors—§§ 591.601-6 and 591.654 of this chapter.

(9) Release of statistical material—DA Memo 360-3.

(10) Release of information to the Federal Bureau of Investigation for in-

vestigation and prosecution of offenses—AR 22-160.

(11) Release of information relating to medical care recovery claims—AR 25-110 (§§ 537.21-537.23 of this chapter).

(12) Release of defense (classified) information. Information classified pursuant to AR 380-5 (Part 505 of this chapter) may not be released pursuant to §§ 518.1-518.4. However, if it appears that information from, access to, or copies of defense information are of proper and direct concern to a requesting party, and that the granting of the request would be appropriate if the papers were not classified, declassification will be considered for the whole document or portions thereof. See paragraph 15, AR 380-6. Necessary coordination will be made with the command intelligence officer, or the Assistant Chief of Staff for Intelligence, as appropriate.

(13) Release of technical reports—AR 70-31.

(c) *Definitions.*—(1) *Release of information.* The disclosure of information from Army records by furnishing copies, extracts or summaries of such records; by permitting examination of such records; or through interview with the custodian or other person having knowledge of the records. Use of such records by individuals or agencies within the Executive Branch of the Government in the course of official duties is not a release of information for purposes of this regulation. However, regulations concerning specific types of information or records may place restrictions on such use, e.g., IG reports (AR 20-1); accident investigations (AR 385-40).

(2) *Army records.* All records, papers, and files of the Department of the Army as well as the contents of such records.

(d) *Examination and reproduction of records.*—(1) *Personal examination of records.* Authority to release records includes authority to permit their examination. It is not feasible, in view of the large number of agencies and the wide variety of papers in the Department of the Army, to establish by general rule the places at which access may be granted to particular documents. However, when authority to examine records is granted, the examination normally will be permitted at the place where the papers are maintained or stored, during regular business hours, and under such circumstances and procedures as are deemed appropriate by the custodian.

(2) *Release of Army records.* Army records will not be permitted to leave the possession of the authorized custodian thereof, except with the authority, in each instance, of the custodian or, if the case involves actual or potential litigation in which the United States has an interest, The Judge Advocate General. Original and record copies may not be released, but properly authenticated copies should be furnished instead. Copies, summaries, or extracts of the records may be released in accordance with the provisions of this regulation. The Bureau of the Budget has directed that a charge be imposed for conducting a search and preparing copies of records

in accordance with the provisions of title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140). Exceptions are set forth in AR 37-30 and AR 345-200.

(e) *Legal interpretations.* Questions of legal interpretations with regard to the release of information which may arise under §§ 518.1-518.4 will be referred to a judge advocate or The Judge Advocate General as appropriate (e.g., whether information would aid in the prosecution or support of claims against the United States; whether parties requesting certain information are properly and directly concerned therewith; whether certain privileged records may be released without the consent of the individual concerned).

**§ 518.2 Release of records by commands subordinate to headquarters, Department of the Army.**

(a) *Information obtainable by members of the general public.*—(1) The commander of a unit, installation, or activity may furnish access to, or copies of, unclassified regulations, publications, rules, orders, and decisions, except those which fall within the limitations set forth in § 518.3(a) or contain restrictions placed in the publication itself.

(2) The following categories of records are illustrative of the type which can be released by the aforesaid officers without referring the request to the Headquarters, Department of the Army:

(i) Army regulations, special regulations, readjustment regulations, mobilization regulations, Joint Army Air Force adjustment regulations, general orders, bulletins, Department of the Army pamphlets, Department of the Army memorandums, procurement regulations, procurement circulars, Armed Services procurement regulations, field manuals, technical manuals, Army renegotiation manual, renegotiation manuals, and standard forms of bids, acceptances, contracts, and leases.

(ii) Final decisions by boards of review created under the Uniform Code of Military Justice, decisions of the Armed Services Board of Contract Appeals, and decisions of the Contract Adjustment Board.

(iii) Rules, orders, and opinions in the adjudication of cases of general public interest which may be cited as precedents; regulations concerning construction, operation, and maintenance for improvement of rivers, harbors, and waterways for navigation, flood control, and related purposes, including shore protection work; and courts-martial orders.

(iv) Historical data, in accordance with sec. IV, AR 345-200.

(b) *Information obtainable by persons properly and directly concerned.*—(1) *Medical records.* Nothing in §§ 518.1-518.4 will be construed to limit the recognized authority of commanding officers of medical treatment facilities or record centers to release information as follows:

(i) Information on the condition of sick and injured patients may be released to the relatives of such patients, in order to allay their anxiety.

(ii) Information that the patient's condition has reached a critical stage may be released to the nearest known relative or the person designated by the patient to be informed in case of an emergency.

(iii) Information that a diagnosis of psychosis has been made may be released to the nearest known relative or the person designated by the patient.

(iv) Information to local officials with respect to all births, deaths, and cases of communicable diseases where such reports are required by pertinent local laws.

(v) Medical records relating to present or former military personnel, dependents, civilian employees, or patients in a medical treatment facility of the Army Establishment, are the proper and direct concern of the individual to whom they pertain, and may be released to him (para. 10, AR 25-110). In the event he has been adjudged insane or is dead, the records are the proper and direct concern of the next of kin or his legal representative, and may be released to them. If the information might prove injurious to the physical or mental health of the patient, the information will not be released to the individual concerned. In such a contingency, the information will be released only to his next of kin or legal representative.

(vi) Medical records may be furnished to a Federal or State hospital or penal institution when the individual to whom they pertain is a patient or inmate therein. If the patient or his legal representative consents, the medical records of the patient may be released to a civilian physician.

(vii) Copies of medical records, or information therefrom, may be furnished to authorized representatives of the National Academy of Sciences, National Research Council, or any other accredited agency, when engaged in cooperative studies undertaken at the specific request of, or with the consent of, The Surgeon General.

(viii) In connection with the collection of claims in favor of the Government, pertinent portions of an injured party's medical records may be furnished the tort-feasor's insurer even though the injured party does not consent thereto. See AR 25-110 (§§ 537.21-537.23 of this chapter).

Information released to third persons under the provisions of subdivision (v), (vi), and (vii) of this subparagraph, will be accompanied by a statement to the effect that the information is released upon condition that it will not be disclosed to other persons, except in accordance with the accepted limitations which relate to privileged communications between doctor and patient.

(2) *Release of military personnel records.* Military personnel records may be released by the custodian as follows:

(i) Statement of military service: The Department of the Army is required by statute to provide certain information relating to the service of an individual to that individual or his legal representative. (Sec. 601 of the Soldiers' and

Sailors' Civil Relief Act of 1940, as amended; 50 U.S.C. app. 581.)

(ii) Papers relative to applications for, designation of beneficiaries under, and allotments in payment of premiums for National Service Life Insurance are the proper and direct concern of the applicant or insured. In the event of his death or insanity, the beneficiaries designated in the policies, or the next of kin, are considered to have a direct and proper concern in these records, and may receive information from the aforesaid records.

(iii) Army documents recording the death of a member of the military service, a dependent, or a civilian employee may be released to his next of kin, his life insurance carrier, and legal representative.

(iv) Papers relating to the pay and allowances or allotments of a member or former member of the military service may be furnished to the individual to whom they pertain, his authorized representative and, in the case of deceased personnel, the next of kin.

(3) *Civilian personnel records.* Civilian personnel officers having custody of papers relating to the pay and allowances or allotments of a current or former civilian employee may furnish them to the individual to whom they pertain, his authorized representative, and, in the case of deceased employees, the next of kin. For other records and information releasable to parties properly concerned, see CPR R1.

(4) *Information concerning compensable injuries or deaths of civilian employees.* Authority to release civilian personnel records does not include authority to release statements of witnesses, medical records, or other reports or documents, pertaining to compensation for injuries or death of an Army civilian employee. See CPR R1.4-8 and subchapter 1-4, chapter 339, Federal Personnel Manual. Requests for such information will be handled as outlined in § 518.3.

(5) *Procurement matters.* The release of procurement information is governed by various provisions in the Armed Services Procurement Regulation (ASPR) and the Army Procurement Procedure (APP) (Subchapter A, chapter I of this title and Subchapter G of this chapter). The following additional limitations apply:

(i) If defense (classified) information is involved, the provisions of AR 380-5 (Part 505 of this chapter) will be observed.

(ii) In the absence of a contractual obligation to release the information, or if the data is not of a type which is disseminated in the course of normal working relationships, contracting officials will not permit access to information which aids or supports a claim against the United States.

(a) The Department of the Army has no objection to the release of information to stockholders on the financial operations of corporations holding Department of the Army contracts when access to books and records containing such in-

formation is permitted by State law. However, no defense (classified) information may be divulged to unauthorized persons concerning the national defense or the terms of Department of the Army contracts, or rate of or processes of productions of military equipment or specific war items. Requests for access to such books and records will be reported to the contracting officer for appropriate disposition in accordance with current regulations, including AR 380-5 (Part 505 of this chapter).

(b) Compliance reports and compliance information obtained from books, records, and accounts of contractors and subcontractors in connection with the administration of the Equal Employment Opportunity Program will be used only for that purpose. Requests for materials relating to the above procurement matters will be directed to the contracting officer.

(6) *Board proceedings.* Copies of board proceedings may be released to respondents before boards of officers and boards of inquiry. The release will be effected in accordance with AR 15-6 and related regulations. Certain other individuals and agencies will be considered also to have a proper concern in a board proceeding if they have a direct financial interest in the proceedings (e.g., a surety company which may be obliged to indemnify the Government for a loss of funds). Requests of this nature will be directed to the headquarters of the appointing authority, Attention: Judge Advocate, for disposition.

(7) *Traffic accident investigation reports.* Staff judge advocates are authorized to take action on requests for release of Military Police Traffic Accident Investigations (DA Form 19-68) in accordance with the procedures set forth below except when a military vehicle is involved or physical conditions at the locale of the accident indicate negligence that could result in litigation involving the United States. In the latter instances, release will be made in accordance with § 518.3 and AR 27-5 (§ 516.3).

(i) Part A, DA Form 19-68, and supporting factual information (e.g., statements of witnesses, photographs, measurements, and descriptions of physical items of evidence) may be released.

(ii) Part B, DA Form 19-68, and other opinions and conclusions contained in the report may be released as an exception to the general rule if they cannot be extracted without destroying the continuity of the report or if they are part of the narrative portion of a report which does not contain statements of witnesses. The judge advocate concerned will coordinate with the local provost marshal or other agency preparing the report prior to the release of part B or other opinions or conclusions.

(iii) If the accident which is the subject of the report results in hospitalization of an injured party under circumstances where the United States would have a claim under AR 25-110 (§§ 537.21-537.23) for medical care furnished, the report may be released as provided in subdivisions (i) or (ii) of this subpara-

graph only if no report was prepared by civilian police authorities. If the civilian police prepared a report the request for release should be referred to The Judge Advocate General.

(8) *Claims files.* A claims officer, judge advocate, or other officer who is concerned officially with the disposition of claims arising out of the operations of the Department of the Army, may permit a claimant or his authorized representative to examine papers submitted by the claimant. However, except as authorized in claims regulations, a claimant or the authorized representative of the claimant will not be furnished information from, access to, or copies of other papers of record concerning the claim without the prior approval of The Judge Advocate General.

(9) *Inspector general reports.* Except as specifically provided by AR 20-1, inspector general's reports will not be furnished outside the Department of the Army.

(10) *Civil works program.* Requests involving papers relating to construction operation, and maintenance for improvement of rivers, harbors and waterways for navigation, flood control, and related purposes including shore protection work of the Department of the Army may, if release is not restricted by § 518.3(a)(2), be acted upon by appropriate Corps of Engineers division or district offices.

(c) *Releases to Congress.* Congressional requests. When defense (classified) records are involved, applicable procedures of AR 380-5 (Part 505 of this chapter) will be followed. Inspection of unclassified official records listed below normally will be permitted when requested by members of Congress or staffs of congressional committees.

(1) *Information pertaining to disciplinary action.* See paragraph 7b, AR 345-60.

(2) *Civilian personnel records.* Members of Congress having a legitimate interest in the contents thereof may, upon appropriate identification, examine official personnel folders subject to observance of applicable instructions governing the release of disciplinary action information. See CPR R1.3-6 and paragraph 7b, AR 345-60.

(3) *Military personnel records.* An installation commander may furnish information extracted from records in his custody. Records releasable under this paragraph do not include medical records.

§ 518.3 Information releasable only by the Secretary of the Army or his designee.

(a) *General.*—(1) *Release of information.* Information releasable under § 518.2 by commands subordinate to Headquarters, Department of the Army, may also be released by the agency within Headquarters, Department of the Army primarily concerned.

(2) *Restrictions on release.* Except as authorized in § 518.2 and subparagraph (1) of this paragraph, release of information contained in the following

records may be contrary to law or against the public interest and requests therefore will not be approved unless an exception is made by the Secretary of the Army or his designee:

(i) Information and records set forth in paragraph 17, AR 345-15.

(ii) In addition to and in amplification of the information set out in paragraph 17, AR 345-15, the following types of information:

(a) State secrets, or material which would embarrass the United States in its relations with a foreign power.

(b) Counterintelligence material developed by military investigative agencies or by agencies outside of the Defense Department.

(c) Material received by the Army pursuant to a licensing agreement, the unauthorized disclosure of which would violate a legal obligation to the licensor.

(d) Information which aids in the prosecution of, or support of, a claim against the United States.

(e) Reports by military personnel or civilian employees to superiors; and reports as to particular incidents and transactions (such as reports by claim officers and reports of survey); matters relating solely to the internal management, administration, and operation of the Department of the Army; and material relating to the performance of assigned duties by military personnel and civilian employees.

(f) Except for copies furnished to the accused or respondent, proceedings before courts-martial, boards of officers, boards of inquiry, and courts of inquiry.

(g) Medical records, except as provided in AR 345-200 and § 518.2(b)(1).

(h) Reports and correspondence relating to debarment or suspension of contractors (§ 591.601-6 of this chapter).

(i) Records containing findings, conclusions, recommendations, or opinions of claims personnel may be released only to the Department of Justice or other Government agency having a legitimate interest.

(3) *Exception.* The Secretary or the officers named in paragraph (b) of this section may make an exception and permit release of the records described in subparagraph (2) (i) and (ii) of this paragraph. When a request for such records is received, the Secretary or the officers designated by him will determine whether the applicant is properly and directly concerned and whether release of the information would be compatible with the public interest. The determinations will take into account the nature of the information sought and the use to be made of it by the applicant.

(b) *Designation of officials authorized to release information.* Authority to take action on behalf of the Secretary of the Army upon requests for records described in paragraph (a) of this section is assigned to the officials as indicated below. However, the named officials will coordinate all matters which have public relations aspects with the Chief of Information or with the appropriate information officer in accordance with AR 10-5 and AR 360-5. In all cases where the

information requested is related to actual or potential litigation by or against the United States, its release will be coordinated with The Judge Advocate General.

(1) The Adjutant General or his designee is authorized in his discretion to take action upon all requests involving military personnel records, and medical records of retired, separated, or inactive duty military personnel. Requests for medical records of former military personnel, not covered by the provisions of AR 345-200, will be coordinated with The Surgeon General.

(2) The Surgeon General or his designee is authorized to take action upon all requests involving medical records of active duty military personnel, former military personnel, dependents, and other civilian patients except Department of Army civilians.

(3) The Deputy Chief of Staff for Personnel or his designee is authorized to take action on requests for release of information contained in civilian personnel records.

(4) The Provost Marshal General or his designee is authorized to take action on requests for release of information contained in criminal investigation reports (DA Form 2800).

(5) The Assistant Judge Advocate General for Civil Law is the authorized representative of the Assistant Secretary of the Army (Installations and Logistics) for acting on inquiries concerning debarred or suspended contractors.

(6) The Judge Advocate General or his designee is authorized to take action on all other requests except those involving IG reports. Authority to act on IG reports is as prescribed in AR 20-1. The Judge Advocate General is also authorized to take action on requests within the purview of subparagraphs (1) through (4) of this paragraph in cases involving litigation in which the United States has an interest.

#### § 518.4 Requests.

(a) *Routing of requests*—(1) *Medical records* (i)—*Requests involving medical records of military personnel.* (a) Army personnel separated on or after 6 October 1945 and reservists not on active duty will be directed to Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, Mo., 63132.

(b) *Army officer personnel separated between July 1, 1917 through October 5, 1945, and Army enlisted personnel separated between November 1, 1912 through October 5, 1945, will be directed to the Center Manager, Military Personnel Records Center, GSA, 9700 Page Boulevard, St. Louis, Mo., 63132.*

(c) *Army personnel separated prior to dates specified in (b) of this subdivision will be directed to Assistant Archivist for Military Archives, Office of Military Archives, NARS, GSA, Washington, D.C., 20408.*

(d) *Military personnel on active duty will be directed to the medical treatment facility where they are maintained, if known. If the medical facility is not known, the request will be directed to The Adjutant General, Attention: AGPF, Department of the Army, Washington, D.C.,*

20310, if involving commissioned or warrant officer personnel, or to Commanding Officer, U.S. Army Personnel Support Center, Fort Benjamin Harrison, Ind., 46249, if involving enlisted personnel.

(ii) *Records of civilians.* Requests for the medical records of civilian employees and all dependents will be directed to the medical treatment facility where maintained, if known. If unknown or if the records have been retired, requests will be addressed to the Center Manager, Federal Records Center, GSA, 111 Winnebago Street, St. Louis, Mo., 63118.

(2) *Military personnel records.* Requests for military personnel records or information will be routed to the same addresses as indicated in subparagraph (1) (i) of this paragraph.

(3) *Legal records and labor matters.* (i) Requests involving records of trial by general court-martial, and by special court-martial where a punitive discharge was imposed—Chief, U.S. Army Judiciary, Office of The Judge Advocate General, Washington, D.C., 20315.

(ii) Requests involving the administrative settlement of claims—Chief, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Holabird, Md., 20219.

(iii) Requests involving debarred or suspended contractors—The Assistant Judge Advocate General for Civil Law, Office of The Judge Advocate General, Department of the Army, Washington, D.C., 20310.

(iv) All other requests involving legal or labor matters—The Judge Advocate General, Department of the Army, Washington, D.C., 20310.

(4) *Civil works program.* Requests involving records relating to construction operation, and maintenance for improvement of rivers, harbors, and waterways for navigation, flood control, and related purposes, including shore protection work of the Department of the Army, other than those included in subparagraph (2) of this paragraph, will be directed to the appropriate division or district office of the Corps of Engineers, if known; otherwise, to the Chief of Engineers, Department of the Army, Washington, D.C., 20315.

(5) *Civilian personnel records.* Requests involving personnel records of civilian employees, other than those pertaining to former employees, will be directed to the installation at which the individual is employed. Requests involving personnel records of former civilian employees will be directed to the Center Manager, Federal Records Center, GSA, 111 Winnebago Street, St. Louis, Mo., 63118.

(6) *Procurement matters.* Requests for material relating to procurement activities will be forwarded to the contracting officer concerned, or if not feasible, to the appropriate procuring activity.

(7) *Other requests.* Requests involving records of the Department of the Army, otherwise not provided for in this section, will be directed to The Adjutant General, Department of the Army, Washington, D.C., 20315.

(b) *Contents of requests.* All requests will include the following information:

(1) A detailed description of the records to which the request relates so as to afford a ready identification thereof.

(2) If the request is made by an individual acting in a representative capacity on behalf of another individual or organization, the representative will provide a written authorization from the individual or agency concerned.

(3) If the request relates to information or records, the release of which is limited to persons properly and directly concerned, the request will contain a statement which reflects that concern.

[AR 345-20, June 22, 1965] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

J. C. LAMBERT,  
Major General, U.S. Army,  
The Adjutant General.

[F.R. Doc. 65-10981; Filed, Oct. 14, 1965;  
8:45 a.m.]

## Title 7—AGRICULTURE

### Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

#### SUBCHAPTER E—DETERMINATION OF SUGAR COMMERCIALY RECOVERABLE

[§ 833.12]

#### PART 833—MAINLAND CANE SUGAR AREA

##### 1965 Crop

Pursuant to the provisions of action 302(a) of the Sugar Act of 1948, as amended (hereinafter referred to as "act"), the following regulation is hereby issued:

§ 833.12 Sugar commercially recoverable from sugarcane in the Mainland Cane Sugar Area.

(a) *Definitions.* For the purpose of this section, the terms:

(1) "Trash" means green or dried leaves, sugarcane tops, dirt and all other extraneous material.

(2) "Gross weight" of sugarcane means the total weight (short tons) of sugarcane, including trash, as delivered by a producer for processing for sugar production.

(3) "Net weight" of sugarcane means:

(i) In Florida, the gross weight of sugarcane delivered by a producer to a processor's mill minus a deduction equal to the average percentage weight of trash delivered with all sugarcane ground during the 1965-crop season at such mill.

(ii) In Louisiana, the weight obtained by deducting the weight of trash from the gross weight of sugarcane as delivered by a producer.

(b) *Recoverable sugar.* For the 1965 crop of sugarcane, the amount of sugar, in hundredweight, raw value, commercially recoverable from sugarcane grown on a farm in the Mainland Cane Sugar Area and marketed (or processed by the producer) for the extraction of sugar or liquid sugar, shall be obtained by mul-

tiplying the net weight of the sugarcane in tons by the rate of recoverability specified for the average percentage of sucrose in the normal juice of such sugarcane, as follows:

(1) For farms in Louisiana.

Percentage of sucrose in normal juice: <sup>1</sup>	Rate of recoverable sugar (hundredweight) per net ton of sugarcane
3.0	0.095
4.0	0.223
5.0	0.351
6.0	0.479
7.0	0.607
8.0	0.908
9.0	1.094
10.0	1.285
11.0	1.471
12.0	1.653
13.0	1.836
14.0	2.016
15.0	2.193
16.0	2.369
17.0	2.545
18.0	2.721

<sup>1</sup>Rates for the intervening tenths of 1 percent shall be calculated by interpolation.

(2) For farms in Florida.

Percentage of sucrose in normal juice: <sup>1</sup>	Rate of recoverable sugar (hundredweight) per net ton of sugarcane
3.0	0.076
4.0	0.184
5.0	0.396
6.0	0.612
7.0	0.825
8.0	1.005
9.0	1.176
10.0	1.350
11.0	1.526
12.0	1.697
13.0	1.869
14.0	2.042
15.0	2.215
16.0	2.386
17.0	2.553
18.0	2.716

<sup>1</sup>Rates for the intervening tenths of 1 percent shall be calculated by interpolation.

**Statement of bases and considerations.** Determinations of amounts of sugar commercially recoverable from sugarbeets and sugarcane are required under section 302(a) of the act to establish the amounts of sugar upon which payments are to be made pursuant to the act.

The rates of sugar commercially recoverable at the various normal juice sucrose levels, as specified in this regulation, were calculated from data reported to the Department by the processors of sugarcane for sugar in each of the States of Florida and Louisiana. The calculation for the 8 to 18 percent normal juice sucrose levels made use of data representing averages in each State for the crop years 1960, 1961, 1962, 1963, and 1964 of each of the factors of normal juice extraction (the quantity of normal juice extraction per ton of sugarcane), boiling house efficiency (the ratio of the amount of sugar produced to the amount that could theoretically be produced), the polarization of the sugar produced, and net sugarcane as a percent of gross sugarcane. The calculation also used the purity or retention factor which correlates purity of normal juice with

sugar recovery based on the well-established Winter-Carp formula. That formula is expressed mathematically as follows: Purity or Retention Factor = (1.4-40/P) in which P is purity of normal juice. For the purposes of this regulation, the computed purity at each of the 8 to 18 percent normal juice sucrose levels for the crop years 1960, 1961, 1962, 1963, and 1964 was used.

The rates for the 3 to 7 percent normal juice sucrose levels in Florida and the 5 to 8 percent normal juice sucrose levels in Louisiana were calculated as above except that data at each level was not available for all years of the base period. In Louisiana, the rates for the 3 and 4 percent normal juice sucrose levels were determined by extrapolation as no data are available for these levels.

$$CRS., RV. = \frac{N.J.E. \times B.H.E. \times 2,000 \times N.J.S. \times P.R. \times R.V.C.F.}{(\text{Pol. of sugar}) \times (\text{net sugarcane, percent gross sugarcane})}$$

Except for appropriate changes in each of the two moving 5 year averages, the aforesaid calculation is the same as that used for the preceding crop. The use of data for the most recent five crops results in an average decrease in rates of recoverable sugar of less than one half of one percent.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, sec. 302, 303, 304; 61 Stat. 930, as amended, 931; 7 U.S.C. 1132, 1133, 1134)

**Effective date.** Date of publication.

Signed at Washington, D.C., on October 11, 1965.

CHARLES L. FRAZIER,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11056; Filed, Oct. 14, 1965; 8:51 a.m.]

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[§ 850.147, as amended; Supp. 9]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Oregon Proportionate Share Areas and Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agricultural Stabilization and Conservation Oregon State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to Oregon. Copies of these bases and procedures are available for public inspection at the office of such Committee at 1218 Southwest Washington Street, Portland, Oreg., and at the offices of the Agricultural Stabilization and Conservation Committees in the sugarbeet producing counties of Oregon. These bases and procedures incorporate the following:

In calculating sugar commercially recoverable, the data are used in the following manner: The product of normal juice extraction and boiling house efficiency is divided by the product of the polarization of sugar produced and net sugarcane as a percent of gross sugarcane. The result so obtained is multiplied by 2,000 to obtain a factor which when multiplied by normal juice sucrose and the purity or retention factor for that normal juice sucrose gives pounds of sugar per ton of net sugarcane. By use of the applicable raw value conversion factor, in accordance with section 101(h) of the Sugar Act, pounds of sugar per ton of net sugarcane are converted into sugar, commercially recoverable, raw value. Expressed mathematically the formula reads:

§ 850.156 Oregon.

(a) **Proportionate share areas.** Oregon shall be divided into two proportionate share areas as served by two beet sugar companies. These areas shall be designated as the Nampa-Nyssaa Area and the Umatilla Area. Acreage allotments of 18,214 and 1,608 acres, respectively, are established for these areas on the basis of a formula giving 30 percent weighting to the average accredited acreage for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the crop year 1964 for each area as a measure of "past production" and "ability to produce" sugarbeets, with pro rata adjustments to the State allotment.

(b) **Set-asides of acreage.** Set-asides of acreage shall be made from area allotments as follows: Nampa-Nyssaa Area—90 acres for new producers, and 90 acres for appeals and adjustments; Umatilla Area—20 acres for new producers, and 10 acres for appeals and adjustments.

(c) **Requests for proportionate shares.** A request for each farm share shall be filed at the local ASC county office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed, as provided in § 850.147, a fully completed Form SU-100 shall be filed by March 16, 1965. However, requests for shares may be accepted after such dates and shares may be established if the State committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness or other reasons beyond his control: *And provided further*, That requests may be accepted generally by the State committee after such date if acreage is available within the area allotment.

(d) **Establishment of individual proportionate shares for old-producer farms—(1) Farm bases—(i) Nampa-Nyssaa Area.** For each old-producer farm, the farm base shall be the larger of the

results of a formula giving a 30 percent weighting to the average accredited acreage for the farm for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the farm for the crop year 1964, or the results of a formula giving a 30 percent weighting to the average of the 1962 and 1963 crop personal accredited acreage record within the area of the 1965-crop operator of the farm and a 70 percent weighting to such operator's personal record for the crop year 1964.

(i) *Umatilla area.* For each old-producer farm, a farm base shall be determined on the basis of the personal accredited acreage record within the area of the person who will operate such farm for the 1965-crop year. The base shall be determined on the basis of a formula giving a 30 percent weighting to the average of the personal accredited acreage record within the area of such operator for the crop years 1962 and 1963 and a 70 percent weighting to such record for the crop year 1964. If the operator has such record in only one or two of such years, a weighting of 15 percent will be applied to the 1962 crop record, 15 percent to the 1963 crop record and 70 percent to the 1964 crop record. Notwithstanding the foregoing provisions of this subdivision (ii), no farm base shall be established at a level of less than 20 acres unless such lesser amount is requested.

(2) *Initial proportionate shares.* For the Umatilla Area, the total of individual farm bases for old-producer farms, as established pursuant to this paragraph, is less than the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from the farm bases as follows: For farms for which the respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with the requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms, in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph (2). For the Nampa-Nyssa Area, the total of individual farm bases for old producer farms, as established pursuant to this paragraph, exceeds the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm bases by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the area allotment less such set-asides. The proration factor for each area shall be as follows: Umatilla Area—1.68864; Nampa-Nyssa Area—0.8902.

(e) *Establishment of individual proportionate shares for new-producer farms.* Within the acreage set aside for new producers in each proportionate share area, shares shall be established in an equitable manner for farms to be operated during the 1965-crop year by

new producers. The State Committee has determined that a 15.0 acre share is the minimum acreage which is economically feasible to plant as a new-producer farm share in the Nampa-Nyssa Area and 20.0 acres is the minimum in the Umatilla Area. Distribution of acreage for establishing new producer shares will be made on the basis of an entire allotment area. In determining whether a farm for which a request is filed for a new-producer share may qualify for such a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the County Committee, subject to review by the State Committee, by taking into consideration availability and suitability of land, availability of irrigation water, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities, shall rate each farm as provided in § 850.147(k) and shall establish new-producer farm proportionate shares as provided therein.

(f) *Adjustments and appeals.* Within the acreage available from the set-aside for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments may be made in initial shares for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(g) *Adjustments because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting or failure to plant proportionate share acreage on farms in any county shall be reported to the ASC State Committee. Acreages released and so reported, together with available acreages from unused set-asides or from other sources of unused acreage shall be distributed to farms in the State whereon additional acreage may be used. Such distribution shall be made prior to August 25, 1965, in the Umatilla Area and September 4, 1965, in Nampa-Nyssa Area.

(h) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none." In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked

"revised." For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(j) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Oregon State Committee for determining farm proportionate shares in Oregon for the 1965 crop of sugarbeets.

Oregon is divided into two areas. Informal relationships are maintained with grower and processor representatives. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugarbeets are measured by average accredited acreages for the crop years 1962-64.

Farm shares for new producers are established as provided in § 850.147. Twenty-acre shares are determined to be minimum economic units for new-producer farms in the Umatilla Area and fifteen acres in the Nampa-Nyssa Area.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals, are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 301, 302, 61 Stat. 929, 930 as amended; 7 U.S.C. 1131, 1132)

Dated: August 26, 1965.

R. E. SCHEIDEN,  
Chairman, Agricultural Stabilization and Conservation Oregon State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11057; Filed, Oct. 14, 1965; 8:51 a.m.]

[§ 850.147, as amended; Supp. 11]

## PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

### Indiana Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agri-

cultural Stabilization and Conservation Indiana State Committee has issued the bases and procedures for establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to Indiana. Copies of these bases and procedures are available for public inspection at the office of such Committee at 311 West Washington Street, Indianapolis, Ind., and at the offices of the Agricultural Stabilization and Conservation Committees in the sugarbeet producing counties of Indiana. These bases and procedures incorporate the following:

§ 850.158 Indiana.

(a) *Proportionate share area.* In the establishment of individual farm shares, the State shall be deemed to be one allotment area.

(b) *Set-asides of acreage.* A set-aside of 1.0 acre shall be made, from the State acreage allocation, for appeals and adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm share shall be filed at the local ASC County Office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed, as provided in § 850.147, a fully completed Form SU-100 shall be filed by April 13, 1965. However, requests for shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness or other reasons beyond his control, and provided further, that requests may be accepted generally by the State Committee after such date if acreage is available within the area allotment.

(d) *Establishment of individual proportionate shares for old-producer farms—(1) Farm bases.* For each old-producer farm, a farm base shall be determined on the basis of a formula giving 30 percent weighting to the average accredited acreage for the farm for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the farm for the crop year 1964.

(2) *Initial proportionate shares.* The total of individual farm bases for old-producer farms in the State, as established pursuant to this paragraph, exceeds the area allotment minus the set-aside of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from the farm bases by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the area allotment less such set-aside. The proration factor shall be 0.8989.

(e) *Adjustments and appeals.* Within the acreage available from the set-aside for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages, adjustments may be made in initial shares

for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(f) *Adjustments because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting or failure to plant proportionate share acreage on farms shall be reported to the ASC State Committee. Acreages released and so reported, together with available acreages from unused set-asides or from other sources of unused acreage, shall be distributed to farms in the State whereon additional acreage may be used. Such distribution shall be made prior to August 15, 1965.

(g) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none." In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked "revised." For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(h) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(i) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Indiana State Committee for determining farm proportionate shares in Indiana for the 1965 crop of sugarbeets.

In establishing shares for old-producer farms, the factors of "past production" and "ability to produce" sugarbeets are measured by applying a formula which gives a 30 percent weighting to the average accredited acreage for the crop years 1962 and 1963 and a 70 percent weighting to the 1964-crop accredited acreage.

No new-producer shares were determined. A deduction of 1/2 of 1 percent of the State allocation of 57 acres would

have resulted in a share of uneconomic size.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Dated: August 23, 1965.

LENARD C. POUND,  
Chairman, Agricultural Stabilization and Conservation Indiana State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11058; Filed, Oct. 14, 1965; 8:51 a.m.]

[§ 850.147, as amended; Supp. 14]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Minnesota Proportionate Share Areas and Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agricultural Stabilization and Conservation Minnesota State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to Minnesota. Copies of these bases and procedures are available for public inspection at the office of such Committee at the Griggs Midway Building, 1821 University Avenue, St. Paul, Minn., and at the offices of the Agricultural Stabilization and Conservation Committees in the sugarbeet producing counties of Minnesota. These bases and procedures incorporate the following:

§ 850.161 Minnesota.

(a) *Proportionate share areas.* Minnesota shall be divided into two proportionate share areas comprising the East Grand Forks-Crookston-Moorhead and the Chaska-Mason City beet sugar factory districts of the State. These areas shall be designated as the Northwest Area and the Southern Area, respectively. Acreage allotments of 72,768 and 39,062 acres, respectively, are established for these areas on the basis of a formula giving a 30 percent weighting to the average accredited acreage for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the crop year 1964, as a measure of "past production" and "ability to produce" sugarbeets, with pro rata adjustments to the State allocation.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows: Northwest Area—350 acres for new producers, and 375 acres for appeals and adjustments; Southern Area—250 acres for new producers, and 200 acres for appeals and adjustments.

(c) *Requests for proportionate shares.* A request for each farm share shall be filed at the local ASC County Office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed, as provided in § 850.147, a fully-completed Form SU-100 shall be filed by March 30, 1965. However, requests for shares may be accepted after such date and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness, or other reasons beyond his control and provided further, that requests may be accepted generally by the State Committee after such date if acreage is available within the area allotment.

(d) *Establishment of individual proportionate shares for old-producer farms.*—(1) *Farm bases.* For each old-producer farm the farm base shall be the larger of: (i) The result of applying a formula giving 30 percent weighting to the average accredited acreage for the farm for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the farm for the crop year 1964; (ii) the result of applying a formula giving 30 percent weighting to the average personal accredited acreage record within the State, for the crop years 1962 and 1963, of the person who will operate the farm for the 1965-crop season and 70 percent weighting to such record for the 1964-crop year; or (iii) 90 percent of the 1964-crop personal accredited acreage record of such operator.

(2) *Initial proportionate shares.* For each proportionate share area, the total of individual farm bases for old-producer farms, as established pursuant to this paragraph, exceeds the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm base in each proportionate share area by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the area allotment less such set-asides. The proration factor for each area shall be as follows: Northwest Area—0.9052 and Southern Area—0.9598.

(e) *Establishment of individual proportionate shares for new-producer farms.* Within the acreage set aside for new producers in each proportionate share area, shares shall be established in an equitable manner for farms to be operated during the 1965-crop year by new producers. The State Committee has determined that a 50-acre share is the minimum acreage which is econom-

ically feasible to plant as a new-producer farm share. In the Southern area, no allotment of acreage available for establishing new-producer shares will be made to individual counties. In the Northwest area such acreage shall be prorated to counties in multiples of economic units on the basis of the total of 1965-crop bases of old-producer farms within such counties, except that the counties of Kittson, Norman and Wilkin will be grouped for this determination. In determining whether a farm for which a request is filed for a new-producer share may qualify for such a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the County Committee, subject to review by the State Committee, by taking into consideration availability and suitability of land, availability of irrigation water, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities shall rate each farm as provided in § 850.147(k). The State Committee shall establish new-producer farm shares as provided therein.

(f) *Adjustments and appeals.* Within the acreage available from the set aside for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments may be made in initial shares for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water (where used), adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(g) *Adjustment because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting, failure to plant proportionate share acreage on farms or from unused set-asides, within a county, shall be made available to the county committee for fair and equitable adjustments. Acreages released and so reported after May 21, 1965, together with available acreages from other sources of unused acreage shall be distributed to farms in the State whereon additional acreage may be used. Such distribution shall be made prior to August 15, 1965, or a later date if approved by the State Committee.

(h) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the

release of acreage, the redistribution of unused acreage, appeals or the reconstruction of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked "revised". For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(j) *Farms receiving commitments of acreage from the national reserve.* Proportionate shares for farms receiving commitments of acreage from the national sugarbeet acreage reserve shall be established in accordance with the provisions of §§ 850.147 and 851.1 of this chapter.

(k) *Determination provisions prevail.* The bases and procedure set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Minnesota State Committee for determining farm proportionate shares in Minnesota for the 1965 crop of sugarbeets.

Minnesota is divided into two proportionate share areas. Informal relationships are maintained with grower and processor representatives. In establishing proportionate shares for old-producer farms, the factors of "past production" and "ability to produce" sugarbeets are measured by applying a formula to the 1962-64 crop accredited acreage records of the farm or to the 1962-64 crop accredited acreage record of the 1965-crop operator of the farm.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; sec. 301, 302, 61 Stat. 929, 930 as amended; 7 U.S.C. 113, 1132)

Dated: August 25, 1965.

RUSSELL A. JOHNSON,  
Acting Chairman, Agricultural  
Stabilization and Conservation  
Minnesota State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11059; Filed, Oct. 14, 1965;  
8:51 a.m.]

[§ 850.147, as amended; Supp. 16]

## PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

## Ohio Proportionate Share Areas and Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agricultural Stabilization and Conservation Ohio State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to Ohio. Copies of these bases and procedures are available for public inspection at the office of such Committee at 202 Old Federal Building, Columbus, Ohio, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugarbeet producing counties of Ohio. These bases and procedures incorporate the following:

## § 850.163 Ohio.

(a) *Proportionate share areas.* Ohio shall be divided into two proportionate share areas or districts comprising the farms served by two beet sugar companies. These areas shall be designated "Northern Ohio District" and "Buckeye District", respectively. Acreage allotments of 20,680 and 8,743 acres, respectively are established for these districts on the basis of a formula giving 30 percent weighting to the average accredited acreage for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the crop year 1964 for each district as a measure of "past production" and "ability to produce" with pro rata adjustments to the State allocation.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from district allotments as follows: Buckeye District—44 acres for new producers and 43.5 acres for appeals and adjustments in initial shares; and Northern Ohio District—103 acres for new producers and 103 acres for appeals and adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm share shall be filed at the local ASC County Office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed, as provided in § 850.147, a fully-completed Form SU-100 shall be filed by April 12, 1965. However, requests for shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness or other reasons beyond his control, and provided further, that requests may be accepted generally by the State Committee after such date if acreage is available within the district allotment.

(d) *Establishment of individual proportionate shares for old-producer farms—(1) Farm bases.* For each old-producer farm, a farm base shall be determined on the basis of a formula giving 20 percent weighting to the accredited acreage for the farm for the crop year 1962, a 30 percent weighting to such record for the crop year 1963 and a 50 percent weighting to such record for the crop year 1964.

(2) *Initial proportionate shares.* For the Buckeye District, the total of individual farm bases for old-producer farms, as established pursuant to this paragraph (d), is less than the district allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm bases as follows: For farms for which respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the district allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph. For the Northern Ohio District, the total of farm bases for old-producer farms as established pursuant to this paragraph exceeds the district allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm bases by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the district allotment less such set-aside. The proration factor for the Buckeye District shall be 1.3663 and for the Northern Ohio District it shall be 0.9860.

(e) *Establishment of individual proportionate shares for new-producer farms.* Within the acreage set aside for new producers in each proportionate share district, shares shall be established in an equitable manner for farms to be operated during the 1965-crop year by new producers. The State Committee has determined that 25 acres are the minimum acreage which is economically feasible to plant as a new-producer farm share. Distribution of acreage for establishing new-producer shares shall be made on the basis of an entire district. In determining whether a farm for which a request is filed for a new-producer share may qualify for such a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the County Committee, by taking into consideration availability and suitability of land, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities, shall rate each farm, as provided in § 850.147 (k). The State Committee shall establish new-producer farm shares as provided therein.

(f) *Adjustments and appeals.* Within the acreage available from the set-aside

for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages in each proportionate share district, adjustments may be made in initial shares for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the district by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(g) *Adjustments because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting or failure to plant proportionate share acreage on farms in any county shall be reported to the ASC State Committee. Acreages released and so reported, together with available acreages from unused set-asides or from other sources of unused acreage shall be distributed to farms in the State whereon additional acreage may be used. Such distribution to be made prior to August 31, 1965.

(h) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked "revised". For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(j) *Farms receiving commitments of acreage from the national reserve.* Proportionate shares for farms receiving commitments of acreage from the national sugarbeet acreage reserve shall be established in accordance with the provisions of §§ 850.147 and 851.1 of this chapter.

(k) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Ohio State Committee for determining farm proportionate shares in Ohio for the 1965 crop of sugarbeets.

Ohio is divided into two areas as served by beet sugar companies. Informal relationships are maintained with grower and processor representatives. In establishing shares for old producers, the factors of "past production" and "ability to produce" sugarbeets are measured on the basis of a formula giving a 20 percent weighting to the accredited acreage on the farm for the crop year 1962, a 30 percent weighting to such record for the crop year 1963 and a 50 percent weighting to such record for the crop year 1964.

Farm shares for new producers are established as provided in § 850.147. Twenty-five acre shares are determined to be minimum economic units for new-producer farms.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Dated: September 2, 1965.

DWIGHT WISE,  
Chairman, Agricultural Stabilization and Conservation Ohio State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11060; Filed, Oct. 14, 1965;  
8:52 a.m.]

[§ 850.147, as amended; Supp. 17]

## PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

### New Mexico Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agricultural Stabilization and Conservation New Mexico State Committee has issued the bases and procedures for establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to New Mexico. Copies of these bases and procedures are available for public inspection at the office of such Committee at 517 Gold Avenue SW, Albuquerque, N. Mex. These bases and procedures incorporate the following:

#### § 850.164 New Mexico.

(a) *Proportionate share area.* In the establishment of individual farm shares, the State shall be deemed to be one allotment area.

(b) *Set-asides of acreage.* Six acres shall set aside from the State acreage allocation for appeals and adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm share shall be filed at the local ASC County Office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed as provided in § 850.147, a fully-completed Form SU-100 shall be filed by April 13, 1965. However, requests for shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness or other reasons beyond his control, and provided further, that requests may be accepted generally by the State Committee after such date if acreage is available within the area allotment.

(d) *Establishment of individual proportionate shares for old-producer farms—(1) Farm bases.* For each old-producer farm, a farm base shall be established at 100 percent of the 1964 accredited acreage of the farm.

(2) *Initial proportionate shares.* The total of individual farm bases for old-producer farms in the State as established pursuant to this paragraph is more than the area allotment minus the set-aside of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm base by prorating to such farms, in accordance with their respective bases, the area allotment less the prescribed set-aside. The proration factor for the area is 0.70.

(e) *Adjustments and appeals.* Within the acreage available from the set-aside for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages, adjustments may be made in initial shares for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the State by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(f) *Adjustments because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting or failure to plant proportionate share acreage shall be reported to the ASC State Committee. Acreages released and so reported, together with available acreages from unused set-asides

or from other sources of unused acreage shall be distributed to farms in the State whereon additional acreage may be used. Such distribution shall be made prior to August 31, 1965.

(g) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals, or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked "revised". For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(h) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(i) *Farms receiving commitments of acreage from the national reserve.* Proportionate shares for farms receiving commitments of acreage from the national sugarbeet acreage reserve shall be established in accordance with the provisions of §§ 850.147 and 851.1 of this chapter.

(j) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation New Mexico State Committee for determining farm proportionate shares in New Mexico for the 1965 crop of sugarbeets.

Informal relationships are maintained with grower and processor representatives. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugarbeets are measured by the 1964 accredited acreage record for the farm. Inasmuch as the acreage required to be set aside for the establishment of shares for new producer farms was considerably less than that established by the State Committee as a minimum economic unit (25 acres), no new-producer shares were established.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 301, 302, 61 Stat. 929, 930 as amended; 7 U.S.C. 1131, 1132)

Dated: August 24, 1965.

PAUL WOOFER,  
Chairman, Agricultural Stabilization and Conservation New Mexico State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[P.R. Doc. 65-11061; Filed, Oct. 14, 1965;  
8:52 a.m.]

[§ 850.147, as amended; Supp. 18]

## PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

### California Proportionate Share Areas and Farm Proportionate Shares for 1965 Crop

Pursuant to the provisions of § 850.147 (29 F.R. 14620, 15801, 17029), the Agricultural Stabilization and Conservation California State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm shares for the 1965 sugarbeet crop from acreage allocated and from any unused acreage redistributed to California. Copies of these bases and procedures are available for public inspection at the office of such Committee at 2020 Milvia Street, Berkeley, Calif., and at the offices of the Agricultural Stabilization and Conservation Committees in the sugarbeet producing counties of California. These bases and procedures incorporate the following:

#### § 850.165 California.

(a) *Proportionate share areas.* California shall be divided into two proportionate share areas. These areas shall be designated the "Northern Area" and the "Southern Area," respectively. Acreage allotments of 241,907 and 61,234 acres respectively, are established for these areas on the basis of a formula giving 30 percent weighting to the average accredited acreage for the crop years 1962 and 1963 and 70 percent weighting to the accredited acreage for the crop year 1964 for each area as a measure of "past production" and "ability to produce" sugarbeets, with pro rata adjustments to the State allocation.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows: Northern Area—1,203 acres for new producers and 1,203 acres for appeals and adjustments in initial shares; Southern Area—306 acres for new producers and 306 acres for appeals and adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm share shall be filed at the local ASC County Office on Form SU-100, Request for Sugarbeet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.147. If a preliminary request for a tentative farm share is filed, a fully-completed

Form SU-100 shall be filed by January 30, 1965, for the Northern Area and by May 25, 1965, for the Southern Area. However, requests for shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of illness or other reasons beyond his control, and provided further, that requests may be accepted generally by the State Committee after such date if acreage is available within the area allotment.

(d) *Establishment of individual proportionate shares for old-producer farms.* (1) *Farm bases.* For each old-producer farm, a farm base shall be determined on the basis of the 1962-64 crop personal accredited acreage record of the person who will be the 1965-crop operator of the farm or on the basis of the landowner's share of the accredited acreages on the farm for such three year period. The farm base shall be the largest of (i) the result of adding 30 percent of the average of such personal accredited acreage record for the crop years 1962 and 1963 and 70 percent of such personal accredited acreage record for the crop year 1964, (ii) the result of dividing by three the total of such personal accredited acreage record for the crop years 1962, 1963 and 1964, (iii) the result of adding 30 percent of the average of the landowner's share of the accredited acreages on the farm for the crop years 1962 and 1963 and 70 percent of the landowner's share of the accredited acreage on the farm for the crop year 1964, or (iv) the result of dividing by three the landowner's share of the accredited acreages on the farm for the crop years 1962, 1963 and 1964.

(2) *Initial proportionate shares.* For each proportionate share area, the total of individual farm bases for old producer farms, as established pursuant to this paragraph, exceeds the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial shares shall be established from the farm bases in each proportionate share area by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the area allotment less such set-asides. The proration factor for each area shall be as follows: Northern Area—0.9029; Southern Area—0.9083.

(e) *Establishment of individual proportionate shares for new-producer farms.* Within the acreage set aside for new producers in each proportionate share area, shares shall be established in an equitable manner for farms to be operated during the 1965-crop year by new producers. The State Committee has determined that 25 acres are the minimum acreage which is economically feasible to plant as a new-producer farm share. Distribution of acreage for establishing new-producer shares will be made on the basis of an entire allotment area. In determining whether a farm for which a request is filed for a new-producer share may qualify for such

a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the County Committee, by taking into consideration availability and suitability of land, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities, shall rate each farm as provided in § 850.147 (k). The State Committee shall establish new-producer farm shares as provided therein.

(f) *Adjustments and appeals.* Within the acreage available from the set-aside for adjustments and appeals, and from any acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments may be made in initial shares for old producers so as to establish a share for each farm which is fair and equitable as compared with shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. Such acreage shall also be used to make adjustments in shares under appeals to establish fair and equitable shares in accordance with the provisions of § 891.1 of this chapter applicable to appeals.

(g) *Adjustments because of unused or unallotted acreage.* Any acreage made available during the 1965-crop season by underplanting or failure to plant proportionate share acreage on farms in any county shall be reported to the ASC State Committee. Acreages released and so reported together with available acreages from unused set-asides or from other sources of unused acreage shall be distributed to farms in the State whereon additional acreage may be used. Such distribution shall be made prior to October 1, 1965, in the Northern Area and prior to July 1, 1966, in the Southern Area.

(h) *Notification of farm operators.* The farm operator shall be notified concerning the share established for his farm on Form SU-103, Notice of Farm Proportionate Share—1965 Sugarbeet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted share on a Form SU-103 marked "revised". For each tentative share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) *Redetermination of proportionate share.* The share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.147.

(j) *Farms receiving commitments of acreage from the national reserve.* Pro-

portionate shares for farms receiving commitments of acreage from the national sugarbeet acreage reserve shall be established in accordance with the provisions of §§ 850.147 and 851.1 of this chapter.

(k) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.147.

*Statement of bases and considerations.* This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation California State Committee for determining farm proportionate shares in California in accordance with the determination of proportionate shares for the 1965 crop of sugarbeets, as issued by the Secretary of Agriculture.

California is divided into two areas. Informal relationships are maintained with grower and processor representatives. In establishing proportionate shares for old producer farms, the factors of "past production" and "ability to produce" sugarbeets are measured by applying formulas to the 1962-64 personal accredited acreage record of the 1965-crop farm operator or to the landowner's share of the 1962-64 accredited acreage record for the farm. Shares for new-producer farms are established as provided in § 850.147. Minimum economic units for new-producer farms were determined to be 25 acres.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals, are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugarbeets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Dated: September 17, 1965.

MERLE MENSINGER,  
Chairman, Agricultural Stabilization and Conservation  
California State Committee.

Approved: October 1, 1965.

CHAS. M. COX,  
Acting Deputy Administrator,  
State and County Operations.

[F.R. Doc. 65-11062; Filed, Oct. 14, 1965;  
8:52 a.m.]

**Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture**

**PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.**

**Expenses and Rate of Assessment for Fiscal Period 1965-66 and Carryover of Unexpended Funds**

Pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924),

regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the proposals submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

**§ 924.205 Expenses and rate of assessment.**

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the fiscal period April 1, 1965, through March 31, 1966, will amount to \$10,345.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, is fixed at forty cents (\$0.40) per ton of fresh prunes.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended May 31, 1965, shall be carried over as a reserve in accordance with the applicable provisions of § 924.42 of the said marketing agreement and order.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule-making procedure, and good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that (1) shipments of fresh prunes are being made; (2) the relevant provisions of said marketing agreement and this part require that rates of assessment fixed for a particular marketing year shall be applicable to all assessable prunes from the beginning of such year; and (3) the current fiscal period began April 1, 1965, and the rate of assessment herein fixed will automatically apply to all assessable prunes beginning with such date.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 11, 1965.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Consumer and Marketing Service.

[F.R. Doc. 65-11009; Filed, Oct. 14, 1965;  
8:47 a.m.]

**Chapter XVI—Consumer and Marketing Service (Food Stamp Program), Department of Agriculture**

**PART 1603—ADMINISTRATIVE AND JUDICIAL REVIEW—RETAILERS AND WHOLESALERS**

Part 1603 is added to read as follows:

**Subpart A—Administrative Review—General**

- Sec.  
1603.1 Scope and purpose.  
1603.2 Food Stamp Review Officer.  
1603.3 Authority and jurisdiction.  
1603.4 Rules of procedure.

**Subpart B—Rules of Procedure**

- 1603.5 Manner of filing requests for review.  
1603.6 Content of requests for review.  
1603.7 Initial action upon receipt of a request for review.  
1603.8 Determination of the Food Stamp Review Officer.  
1603.9 Legal advice and extensions of time.

**Subpart C—Judicial Review**

- 1603.10 Judicial review.

AUTHORITY: The provisions of this Part 1603 issued under P.L. 88-525, 78 Stat. 703.

**Subpart A—Administrative Review—General**

**§ 1603.1 Scope and purpose.**

This Subpart A sets forth the procedure for the designation of Food Stamp Review Officers and the authority and jurisdiction of such Officers. Subpart B of this part sets forth the rules of procedure to be followed in the filing and disposition of the requests for review for which provision is made in § 1602.8 of this chapter. Subpart C of this part relates to the provisions governing the rights of retailers and wholesalers to judicial review of the final determinations of the Food Stamp Review Officer.

**§ 1603.2 Food Stamp Review Officer.**

The Administrator, C&MS, shall designate one or more persons to act as Food Stamp Review Officers. Such Officers shall serve for such periods as the Administrator, C&MS, shall determine. Changes in designations and additional designations, may be made from time to time at the discretion of the Administrator, C&MS. When more than one Food Stamp Review Officer has been designated, requests for review will be assigned for handling to individual Food Stamp Review Officers by a person designated by the Administrator, C&MS. The names of the Food Stamp Review Officers shall be on file in the Office of the Administrator, C&MS.

**§ 1603.3 Authority and jurisdiction.**

(a) A Food Stamp Review Officer shall act for the Department on requests for review filed by retail food stores or wholesale food concerns aggrieved by any of the following actions:

(1) Denial of an application to participate in the Program under § 1602.1 of this chapter.

(2) Disqualification from participation in the Program under § 1602.6 of this chapter.

(3) Denial of all or any part of any claim under § 1602.7 of this chapter.

(b) The determination of the Food Stamp Review Officer on such a review shall be the final administrative determination of the Department, subject, however, to judicial review as provided in section 13 of the Food Stamp Act of 1964 and Subpart C of this part.

#### § 1603.4 Rules of procedure.

Rules of procedure for the orderly filing and disposition of requests for review of retail food stores or wholesale food concerns submitted in accordance with § 1603.3 shall be issued in Subpart B of this part. The Administrator, C&MS, may subsequently issue amendments to such rules of procedure as he deems appropriate.

#### Subpart B—Rules of Procedure

##### § 1603.5 Manner of filing requests for review.

(a) Requests for review submitted by retail food stores or wholesale food concerns shall be mailed to or filed with "Food Stamp Review Officer, C&MS, U.S. Department of Agriculture, Washington, D.C., 20250."

(b) Such requests shall be in writing and shall state the name and business address of the firm involved, and the name, address and position with the firm of the person who signed the request. The request shall be signed by the owner of the retail food store or wholesale food concern, an officer or partner of the firm, or by counsel, and need not be under oath.

(c) Such a request shall be filed with the Food Stamp Review Officer within ten calendar days of the date of delivery of the notice of the action for which review is requested. For the purpose of determining whether such a request was timely filed, the filing date shall be deemed to be the postmark date of the request, or equivalent if the written request is filed by a means other than mail.

##### § 1603.6 Content of requests for review.

(a) Requests for review shall clearly identify the administrative action from which the review is requested. Such identification shall include the date of the letter or other written communication notifying the firm of the administrative action; the name and title of the person who signed such letter or other communication; and whether the action under appeal concerns a denial of an application for participation, a disqualification from further participation, or a denial of all or any part of a claim.

(b) Such requests shall include information in support of the request showing the grounds on which the review is being sought from the administrative action, or it shall state that such information will be filed in writing at a later date. In such event, the Food Stamp Review Officer shall notify the firm of the date by which such information must be filed. The firm requesting review may ask for an opportunity to appear before the Food Stamp Review Officer in person: *Provided, however,* That any information so submitted in person shall, if directed by the Food Stamp Review Officer, be reduced to writing by the firm and subsequently filed with the Food Stamp Review Officer within such period as he shall specify.

##### § 1603.7 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of a disqualification action, the Food Stamp Review Officer shall notify the Director of the Food Stamp Division, C&MS, in writing, of the action under review and shall direct that the administrative action shall be held in abeyance until the Review Officer has made his determination. Upon receipt of a request for review of a denial of application to participate in the Program, or of a denial of a claim, the Food Stamp Review Officer shall notify the Director of the Food Stamp Division, C&MS, in writing, of the action under review and shall direct that the retailer or wholesaler shall not be approved for participation or paid any part of the disputed claim until the Review Officer has made his determination. In any case, notice to the Director shall be accompanied by a copy of the request filed by the firm.

(b) If the request filed by the firm includes a request for an opportunity to file written information in support of its position at a later date, the Food Stamp Review Officer shall promptly notify the firm of the date by which such information shall be filed. If the firm fails to file any information in support of its position by the designated date, the information submitted with the original request shall be deemed to be the only information submitted by the firm. In such event, if no information in support of the firm's position was submitted with the original request, the action of the Director, Food Distribution Area Office, C&MS, or of the Director, Food Stamp Division, C&MS, whichever is applicable, shall be final.

(c) If the firm filing the request for review asked for an opportunity to appear before the Food Stamp Review Officer in person, such Officer shall promptly notify the firm of the date, time and place set for such appearance. If such firm fails to appear before the Food Stamp Review Officer as specified, any written information timely submitted in accordance with this section shall be deemed to be the only information submitted by such firm.

(d) The Food Stamp Review Officer shall require the Director, Food Stamp Division, C&MS, to promptly submit, in writing, all information which was the basis for the administrative action for which the review has been requested.

##### § 1603.8 Determination of the Food Stamp Review Officer.

(a) The Food Stamp Review Officer shall make a determination based upon: (1) The information submitted by the Director, Food Stamp Division, C&MS, (2) information submitted by the firm in support of its position, and (3) such additional information, in writing, as may be obtained by such Officer from any other person having relevant information.

(b) In the case of a request for review of a denial of an application to partici-

pate in the Program, the determination of the Food Stamp Review Officer shall sustain the action under review or shall direct that the firm be approved for participation.

(c) In the case of a request for review of action disqualifying a firm from participation in the Program, the determination of the Food Stamp Review Officer shall sustain the action under review or specify a shorter period of disqualification, direct that an official warning letter be issued to the firm in lieu of any period of disqualification, or direct that no administrative action be taken in the case.

(d) In the case of a request for review of a denial of all or any part of a claim of a firm, the determination of the Food Stamp Review Officer shall sustain the action under review or shall specify the amount of the claim to be paid by C&MS.

(e) The Food Stamp Review Officer shall notify the firm of his determination by certified mail. Such notification shall be sent to the representative of the firm who filed the request for review.

(f) The Food Stamp Review Officer shall send a copy of his notification to the firm to the Director, Food Stamp Division, C&MS, who shall undertake such action as may be necessary to comply with the determination of such Officer.

(g) The determination of the Food Stamp Review Officer shall take effect 15 days after the date of delivery of such determination to the firm.

##### § 1603.9 Legal advice and extensions of time.

(a) If any request for review involves any doubtful questions of law, the Food Stamp Review Officer shall obtain the advice of the Office of the General Counsel, U.S. Department of Agriculture.

(b) Upon timely written request to the Food Stamp Review Officer by the firm requesting the review, the Food Stamp Review Officer may grant extensions of time, if, in his discretion, additional time is required for the firm to fully present information in support of its position: *Provided, however,* That no extensions shall be made in the time allowed for the filing of a request for review.

#### Subpart C—Judicial Review

##### § 1603.10 Judicial review.

(a) A food retailer or food wholesaler aggrieved by the determination of the Food Stamp Review Officer, may obtain judicial review of such determinations by filing a complaint against the United States in the United States District Court for the district in which he resides or is engaged in business, or in any court or record of the State having competent jurisdiction. Such complaint must be filed within 30 days after the date of delivery or service upon him of the notice of determination of the Food Stamp Review Officer in accordance with § 1603.8 (e), otherwise such determination shall be final.

(b) Service of the summons and complaint in any such action shall be made in accordance with the Rules of Civil Procedure for the United States District Courts. The copy of the summons and complaint required by such Rules to be served on the officer or agency whose order is being attacked shall be sent by registered or certified mail to the person in charge of the applicable Area Office of C&MS listed in § 1600.5 of this chapter.

(c) The suit in the United States District Court or in the State court, as the case may be, shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(d) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall remain in full force and effect, unless the firm makes application to the court upon not less than ten days' notice, and, after hearing thereon and a showing of irreparable injury, the court temporarily stays the administrative action under review pending disposition of the de novo trial or an appeal therefrom.

**NOTE:** The reporting and/or record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

The provisions of this part shall become effective as provided in § 1600.5(d) of this chapter.

ROY W. LENNARTSON,  
Acting Administrator.

Approved: October 11, 1965.

GEORGE L. MEHREN,  
Assistant Secretary.

[F.R. Doc. 65-11083; Filed, Oct. 14, 1965;  
8:52 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 27—CANNED FRUITS AND FRUIT JUICES

##### Canned Concentrated Orange Juice: Confirmation of Effective Date of Order Amending Identity Standard

In the matter of amending the identity standard for canned concentrated orange juice (21 CFR 27.110) to provide an alternative label declaration of the concentration of orange juice soluble solids in terms of degrees Brix for the article when it is packed in containers larger than 1 pint:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341,

371), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 24, 1965 (30 F.R. 10949). Accordingly, the amendment promulgated by that order will become effective October 23, 1965.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 7, 1965.

GEO. P. LARRICK,  
Commissioner of Food and Drugs.

[F.R. Doc. 65-11033; Filed, Oct. 14, 1965;  
8:49 a.m.]

## Title 26—INTERNAL REVENUE

### Chapter I—Internal Revenue Service, Department of the Treasury

#### SUBCHAPTER A—INCOME TAX

[T.D. 6855]

#### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

##### Treatment of Per-Unit Retain Certificates

On May 6, 1965, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 61 and 521 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (30 F.R. 6349) in order to provide rules for the treatment of per-unit retain certificates issued by cooperative associations. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, such regulations are amended as follows:

PARAGRAPH 1, Section 1.61-5 is amended by revising the section heading, by revising paragraph (d), and by adding new paragraphs (e), (f), (g), and (h). These amended and added provisions read as follows:

§ 1.61-5 Allocations by cooperative associations; per-unit retain certificates—tax treatment as to cooperatives and patrons.

(d) *Per-unit retain certificates; tax treatment of cooperative associations; distribution and reinvestment alternative.* (1) (i) In the case of a taxable year to which this paragraph applies to a cooperative association, such association shall, in computing the amount paid or returned to a patron with respect to products marketed for such patron, take into account the stated dollar amount of any per-unit retain certificate (as defined in paragraph (g) of this section)—

(a) Which is issued during the payment period for such year (as defined in subparagraph (3) of this paragraph) with respect to such products,

(b) With respect to which the patron is a qualifying patron (as defined in subparagraph (2) of this paragraph), and

(c) Which clearly states the fact that the patron has agreed to treat the stated dollar amount thereof as representing a cash distribution to him which he has reinvested in the cooperative association.

(ii) No amount shall be taken into account by a cooperative association by reason of the issuance of a per-unit retain certificate to a patron who was not a qualifying patron with respect to such certificate. However, any amount paid in redemption of a per-unit retain certificate which was issued to a patron who was not a qualifying patron with respect to such certificate shall be taken into account by the cooperative in the year of redemption, as an amount paid or returned to such patron with respect to products marketed for him. This subdivision shall apply only to per-unit retain certificates issued with respect to taxable years of the cooperative association to which this paragraph applied to the association (that is, taxable years with respect to which per-unit retain certificates were issued to one or more patrons who are qualifying patrons).

(2) (i) A patron shall be considered to be a "qualifying patron" with respect to a per-unit retain certificate if there is in effect an agreement between the cooperative association and such patron which clearly provides that such patron agrees to treat the stated dollar amounts of all per-unit retain certificates issued to him by the association as representing cash distributions which he has constructively received and which he has, of his own choice, reinvested in the cooperative association. Such an agreement may be included in a by-law of the cooperative which is adopted prior to the time the products to which the per-unit retain certificates relate are marketed. However, except where there is in effect a "written agreement" described in subdivision (ii) of this subparagraph, a patron shall not be considered to be a "qualifying patron" with respect to a per-unit retain certificate if it has been established by a determination of the Tax Court of the United States, or any other court of competent jurisdiction, which has become final, that the stated dollar amount of such certificate, or of a similar certificate issued under similar circumstances to such patron or any other patron by the cooperative association, is not required to be included (as ordinary income) in the gross income of such patron, or such other patron, for the taxable year of the patron in which received.

(ii) The "written agreement" referred to in subdivision (i) of this subparagraph is an agreement in writing, signed by the patron, on file with the cooperative association, and revocable as provided in this subdivision. Unless such an agreement specifically provides to the contrary, it shall be effective for per-unit retain certificates issued with respect to the taxable year of the cooperative association in which the agreement is received by the association, and unless revoked, for per-unit retain certificates issued with re-

spect to all subsequent taxable years. A "written agreement" must be revocable by the patron at any time after the close of the taxable year in which it is made. To be effective, a revocation must be in writing, signed by the patron, and furnished to the cooperative association. A revocation shall be effective only for per-unit retain certificates issued with respect to taxable years of the cooperative association following the taxable year in which it is furnished to the association. Notwithstanding the preceding sentence, a revocation shall not be effective for per-unit retain certificates issued with respect to products marketed for the patron under a pooling arrangement in which such patron participated before such revocation. The following is an example of an agreement which would meet the requirements of this subparagraph:

I agree that, for purposes of determining the amount I have received from this cooperative in payment for my goods, I shall treat the face amount of any per-unit retain certificates issued to me on and after \_\_\_\_\_ as representing a cash distribution which I have constructively received and which I have reinvested in the cooperative.

(Signed)

(3) For purposes of this paragraph and paragraph (e) of this section, the payment period for any taxable year of the cooperative is the period beginning with the first day of such taxable year and ending with the 15th day of the 9th month following the close of such year.

(4) This paragraph shall apply to any taxable year of a cooperative association if, with respect to such taxable year, the association has issued per-unit retain certificates to one or more of its patrons who are qualifying patrons with respect to such certificates within the meaning of subparagraph (2) of this paragraph.

(e) *Tax treatment of cooperative association; taxable years for which paragraph (d) does not apply.* (1) In the case of a taxable year to which paragraph (d) of this section does not apply to a cooperative association, such association shall, in computing the amount paid or returned to a patron with respect to products marketed for such patron, take into account the fair market value (at the time of issue) of any per-unit retain certificates which are issued by the association with respect to such products during the payment period for such taxable year.

(2) An amount paid in redemption of a per-unit retain certificate issued with respect to a taxable year of the cooperative association for which paragraph (d) of this section did not apply to the association, shall, to the extent such amount exceeds the fair market value of the certificate at the time of its issue, be taken into account by the association in the year of redemption, as an amount paid or returned to a patron with respect to products marketed for such patron.

(3) For purposes of this paragraph and paragraph (f) (2) of this section, any per-unit retain certificate containing an

unconditional promise to pay a fixed sum of money on demand or at a fixed or determinable time shall be considered to have a fair market value at the time of its issue, unless it is clearly established to the contrary. On the other hand, any per-unit retain certificate (other than capital stock) which is redeemable only in the discretion of the cooperative association, or which is otherwise subject to conditions beyond the control of the patron, shall be considered not to have any fair market value at the time of its issue, unless it is clearly established to the contrary.

(f) *Tax treatment of patron.* (1) The following rules apply for purposes of computing the amount includible in gross income with respect to a per-unit retain certificate which was issued to a patron by a cooperative association with respect to a taxable year of such association for which paragraph (d) of this section applies.

(i) If the patron is a qualifying patron with respect to such certificate (within the meaning of paragraph (d) (2) of this section), he shall, in accordance with his agreement, include (as ordinary income) the stated dollar amount of the certificate in gross income for his taxable year in which the certificate is received by him.

(ii) If the patron is not a qualifying patron with respect to such certificate, no amount is includible in gross income on the receipt of the certificate; however, any gain on the redemption, sale, or other disposition of such certificate shall, to the extent of the stated dollar amount thereof, be considered as gain from the sale or exchange of property which is not a capital asset.

(2) The amount of the fair market value of a per-unit retain certificate which is issued to a patron by a cooperative association with respect to a taxable year of the association for which paragraph (d) of this section does not apply shall be included, as ordinary income, in the gross income of the patron for the taxable year in which the certificate is received. Any gain on the redemption, sale, or other disposition of such a per-unit retain certificate shall, to the extent its stated dollar amount exceeds its fair market value at the time of issue, be treated as gain on the redemption, sale, or other disposition of property which is not a capital asset.

(g) *"Per-unit retain certificate" defined.* For purposes of paragraphs (d), (e), and (f), of this section, the term "per-unit retain certificate" means any capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice—

(1) Which is issued to a patron with respect to products marketed for such patron;

(2) Which discloses to the patron the stated dollar amount allocated to him on the books of the cooperative association; and

(3) The stated dollar amount of which is fixed without reference to net earnings.

(h) *Effective date.* This section shall not apply to any amount the tax treatment of which is prescribed in section 1385 and § 1.1385-1. Paragraphs (d), (e), and (f) of this section shall apply to per-unit retain certificates as defined in paragraph (g) of this section issued by a cooperative association during taxable years of the association beginning after April 30, 1966, with respect to products marketed for patrons during such years.

PAR. 2. Paragraph (f) of § 1.521-1 is amended to read as follows:

§ 1.521-1 *Farmer's cooperative marketing and purchasing associations; requirements for exemption under section 521.*

(f) A cooperative association will not be denied exemption merely because it makes payments solely in nonqualified written notices of allocation to those patrons who do not consent as provided in section 1388 and § 1.1388-1, but makes payments of 20 percent in cash and the remainder in qualified written notices of allocation to those patrons who do so consent. Nor will such an association be denied exemption merely because, in the case of patrons who have so consented, payments of less than \$5 are made solely in nonqualified written notices of allocation while payments of \$5 or more are made in the form of 20 percent in cash and the remainder in qualified written notices of allocation. In addition, a cooperative association will not be denied exemption if it pays a smaller amount of interest or dividends on nonqualified written notices of allocation held by persons who have not consented as provided in section 1388 and § 1.1388-1 (or on per-unit retain certificates issued to patrons who are not qualifying patrons with respect thereto within the meaning of § 1.61-5(d)(2)) than it pays on qualified written notices of allocation held by persons who have so consented (or on per-unit retain certificates issued to patrons who are qualifying patrons with respect thereto) provided that the amount of the interest or dividend reduction is reasonable in relation to the fact that the association receives no tax benefit with respect to such nonqualified written notices of allocation (or such certificates issued to nonqualifying patrons) until redeemed. However, such an association will be denied exemption if it otherwise treats patrons who have not consented (or are not qualifying patrons) differently from patrons who have consented (or are qualifying patrons), either with regard to the original payment or allocation or with regard to the redemption of written notices of allocation or per-unit retain certificates. For example, if such an association pays patronage dividends in the form of written notices of allocation accompanied by qualified checks, and provides that any patron who does not cash his check within a specified time will forfeit the portion of the patronage dividend represented by such check, then the cooperative association will be denied

exemption under this section as it does not treat all patrons alike.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] BERTRAND M. HARDING,  
Acting Commissioner  
of Internal Revenue.

Approved: October 12, 1965.

STANLEY S. SURREY,  
Assistant Secretary of  
the Treasury.

[F.R. Doc. 65-11048; Filed, Oct. 14, 1965;  
8:50 a.m.]

## Title 29—LABOR

### Subtitle A—Office of the Secretary of Labor

#### PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NON-CONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS STANDARDS ACT)

##### Miscellaneous Amendments

Pursuant to R.S. 161 (5 U.S.C. 22), section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 258), and Reorganization Plan No. 14 of 1950 (3 CFR 1949-53 Comp., p. 007), Part 5 of Title 29 of the Code of Federal Regulations is hereby amended as hereinafter set forth.

Principally, the amendments delete obsolete provisions regarding the delay in effective date provisions of the fringe benefits amendments to the Davis-Bacon Act (40 U.S.C. 276a-276a-7); bring up-to-date the list of statutes subject to Reorganization Plan No. 14 of 1950; and clarify some interpretations of the fringe benefits provision of the Davis-Bacon Act. Other miscellaneous amendments are also made.

The amendments shall be effective upon publication in the FEDERAL REGISTER. The notice and delay in effective date provisions of section 4 of the Administrative Procedure Act are not considered applicable because the amended rules involve matters relating only to public loans, grants, benefits, and contracts.

The amendments to 29 CFR Part 5 are set forth below.

1. The caption of Part 5 is amended to read as set out above and footnote 1 thereto is hereby deleted.

2. Paragraph (a) of § 5.1 is amended to read as follows:

##### § 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated in order to coordinate the administration and enforcement of the labor standards provisions

of each of the following acts by the Federal agencies responsible for their administration and such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon him under Reorganization Plan No. 14 of 1950:

The Davis-Bacon Act (40 U.S.C. 276a-276a-7), and as extended to the Federal-Aid Highway Act of 1956 (23 U.S.C. 113).

Copeland Act (40 U.S.C. 276c).

The Contract Work Hours Standards Act (40 U.S.C. 327-330).

National Housing Act (12 U.S.C. 1713, 1715a, 1715c, 1715k, 1715(d) (3) and (4), 1715v, 1715w, 1715x, 1743, 1747, 1748b, 1748h-2, 1750g).

Hospital Survey and Construction Act (42 U.S.C. 291h).

Federal Airport Act (49 U.S.C. 1114).

Housing Act of 1949 (42 U.S.C. 1459).

School Survey and Construction Act of 1950 (20 U.S.C. 636).

Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1592i).

United States Housing Act of 1937 (42 U.S.C. 1416).

Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281).

Area Redevelopment Act (42 U.S.C. 2518).

Delaware River Basin Compact (sec. 15.1, 75 Stat. 714).

Health Professions Educational Assistance Act of 1963 (42 U.S.C. 292d(c) (4), 293a(c) (5)).

Mental Retardation Facilities Construction Act (42 U.S.C. 295(a) (2) (d), 2662(5), 2675(a) (5)).

Community Mental Health Centers Act (42 U.S.C. 2685(a) (5)).

Higher Educational Facilities Act of 1963 (20 U.S.C. 753).

Vocational Educational Act of 1963 (20 U.S.C. 35f).

Library Services and Construction Act (20 U.S.C. 355c(a) (4)).

Urban Mass Transportation Act of 1964 (sec. 10a, 78 Stat. 307).

Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532).

Public Health Service Act (sec. 605(a) (5), 78 Stat. 454).

Housing Act of 1964 (78 Stat. 797).

The Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199).

The Nurse Training Act of 1964 (sec. 2, 78 Stat. 910).

Elementary and Secondary Education Act of 1965 (20 U.S.C. 239).

Federal Water Pollution Control Act (33 U.S.C. 466).

Appalachian Regional Development Act of 1965 (79 Stat. 5, 21, sec. 402).

National Technical Institute for the Deaf Act (79 Stat. 125, 126, sec. 5(b) (5)).

§ 5.3a [Deleted.]

3. Section 5.3a is hereby deleted.

4. Section 5.5(a) (1) (iv) is amended to read as follows:

§ 5.5 Contract provisions and related matters.

(a) The Agency Head shall cause or require to be inserted in full in any contract subject to the labor standards provisions of any of the acts listed in § 5.1, except those subject only to the Contract Work Hours Standards Act, the following clauses or any modifications thereof to meet the particular needs of the agency if first approved by the Department of Labor:

(1) *Minimum wages.* \* \* \*

(iv) If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* The Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

5. Paragraph (b) of § 5.7 is hereby amended to read as follows:

§ 5.7 Reports to the Secretary of Labor.

(b) *Semi-annual enforcement reports.*

To assist the Secretary in fulfilling his responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Secretary by July 31 and January 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of January 1 through June 30 and July 1 through December 31, respectively. Such reports shall be prepared in the manner prescribed in circular memoranda of the Secretary.

§ 5.21 [Deleted]

6. Section 5.21 is hereby deleted.

7. Section 5.31 is amended to read as follows:

§ 5.31 Meeting wage determination obligations.

(a) A contractor or subcontractor performing work subject to a Davis-Bacon wage determination may discharge his minimum wage obligations for the payment of both straight time wages and fringe benefits by paying in cash, making payments or incurring costs for "bona fide" fringe benefits of the types listed in the applicable wage determination or otherwise found prevailing by the Secretary of Labor, or by a combination thereof.

(b) A contractor or subcontractor may discharge his obligations for the payment of the basic hourly rates and the fringe benefits where both are contained in a wage determination applicable to his laborers or mechanics in the following ways:

(1) By paying not less than the basic hourly rate to the laborers or mechanics and by making the contributions to the fringe benefits in the wage determinations, as specified therein. For example, in the illustration contained in paragraph (c) of § 5.30, the obligations for "painters" will be met by the payment of a straight time hourly rate of not less than \$3.90 and by contributing not less than at the rate of 15 cents an hour for health and welfare benefits, 10 cents an hour for pensions, and 20 cents an hour for vacations; or

(2) By paying not less than the basic hourly rate to the laborers or mechanics and by making contributions for "bona fide" fringe benefits in a total amount not less than the total of the fringe benefits required by the wage determination. For example, the obligations for "painters" in the illustration in paragraph (c) of § 5.30 will be met by the payment of a straight time hourly rate of not less than \$3.90 and by contributions of not less than a total of 45 cents an hour for "bona fide" fringe benefits; or

(3) By paying in cash directly to laborers or mechanics for the basic hourly rate and by making an additional cash payment in lieu of the required benefits. For example, where an employer does not make payments or incur costs for fringe benefits, he would meet his obligations for "painters" in the illustration in paragraph (c) of § 5.30, by paying directly to the painters a straight time hourly rate of not less than \$4.35 (\$3.90 basic hourly rate plus 45 cents for fringe benefits); or

(4) As stated in paragraph (a) of this section, the contractor or subcontractor may discharge his minimum wage obligations for the payment of straight time wages and fringe benefits by a combination of the methods illustrated in subparagraphs (1) thru (3) of this paragraph. Thus, for example, his obligations for "painters" may be met by an hourly rate, partly in cash and partly in payments or costs for fringe benefits which total not less than \$4.35 (\$3.90 basic hourly rate plus 45 cents for fringe benefits). The payments in such case may be \$4.10 in cash and 25 cents in payments or costs in fringe benefits. Or, they may be \$3.75 in cash and 60 cents in payments or costs for fringe benefits.

(R.S. 161, 5 U.S.C. 22; sec. 2, 48 Stat. 948, 40 U.S.C. 276c; sec. 10, 61 Stat. 89, 29 U.S.C. 258; 64 Stat. 1267, 5 U.S.C. 133a-15).

Signed at Washington, D.C., this 8th day of October 1965.

W. WILLARD WIRTZ,  
Secretary of Labor.

[F.R. Doc. 65-11030; Filed, Oct. 14, 1965; 8:49 a.m.]

## Title 39—POSTAL SERVICE

### Chapter I—Post Office Department

#### PART 22—SECOND CLASS

##### Basic Qualifications for Privileges

A notice of proposed revision in § 22.2 of Title 39, Code of Federal Regulations was published in the FEDERAL REGISTER of August 4, 1965 (30 F.R. 9695), describing the characteristics of publications which may qualify as mail matter of the second class.

Interested persons were given 30 days in which to submit written comments with respect to the proposal.

After consideration of the comments received, the Department has reached the conclusion to adopt the proposed subject based on the comments received. The amendments to be effective upon publication are as follows:

#### § 22.2 Qualifications for second-class privileges.

(b) *Basic qualifications.* . . .

(8) *Nominal rate publications.* Publications designed primarily for circulation at nominal rates may not qualify for second-class privileges. They include those for which subscriptions are sold:

(ii) At a reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscription which entitles the subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publisher, the recognized retail value, or the represented value, whichever is highest.

NOTE: The corresponding Postal Manual section is 132.228(b).

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 4351-4370)

HARVEY H. HANNAH,  
Acting General Counsel.

[F.R. Doc. 65-11011; Filed, Oct. 14, 1965; 8:47 a.m.]

#### PART 48—UNDELIVERABLE MAIL

##### Obvious Value Mail

A notice of proposed revision to § 48.8 of Title 39, Code of Federal Regulations, was published in the FEDERAL REGISTER of September 2, 1965 (30 F.R. 11283), concerning a revised definition of "Obvious Value" mail. Interested persons were given 30 days in which to submit written comments with respect to the proposal.

After consideration of the comments received, the Department has reached the conclusion to adopt the proposal. The amendment to be effective upon publication is as follows:

#### § 48.8 Obvious value mail.

Mail of obvious value includes, but is not limited to, all registered, insured, and COD mail, merchandise, sheet music, pictures, photographs, catalogs as defined by §§ 24.1(b)(1) and 25.2(a)(3), of this chapter and books as defined by § 25.2(a)(4)(i) of this chapter. Circulars and miscellaneous printed matter and items unsolicited by the addressee, including samples of merchandise, are not mail of obvious value.

NOTE: The corresponding Postal Manual section is 158.8.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 506)

HARVEY H. HANNAH,  
Acting General Counsel.

[F.R. Doc. 65-11012; Filed, Oct. 14, 1965; 8:47 a.m.]

#### PART 151—CUSTOMS

##### Treatment at Delivery Office

The Bureau of Customs has requested the Post Office Department to announce

that residents returning to the United States on or after October 1, 1965, will no longer be entitled to apply their exemptions toward purchases which they send home. A package, however, may be delivered without the collection of duty assessed if the addressee of the package, or someone acting on his behalf, claims it is entitled to free entry under his tourist exemption and presents a completed Customs Form 3351, covering the merchandise in the package, which reflects that the tourist returned to the United States before October 1, 1965.

If the addressee or his agent is unable to produce a completed Form 3351, a package may, nevertheless, be delivered free of duty if the addressee or his agent completes and signs the reverse side of Customs Form 3419, indicating that the contents of the package were purchased abroad and the addressee returned to the United States before October 1, 1965.

Effective October 1, 1965, § 151.5(d)(4)(iii) of this chapter will no longer be applicable.

Appropriate amendment will be made to § 151.5(d)(4) of this chapter, at a later date.

NOTE: The affected Postal Manual section is 261.544c.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

HARVEY H. HANNAH,  
Acting General Counsel.

[F.R. Doc. 65-11013; Filed, Oct. 14, 1965; 8:47 a.m.]

## Title 50—WILDLIFE AND FISHERIES

### Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

#### PART 32—HUNTING

##### Swan Lake National Wildlife Refuge, Mo.; Correction

In F.R. Volume 30, Number 186, appearing on page 12296 of the issue for Saturday, September 25, 1965, the first sentence of the first paragraph relating to public hunting of geese on the Swan Lake National Wildlife Refuge should read as follows: "Public hunting of geese in the Swan Lake National Wildlife Refuge, Mo., is permitted from October 20 through December 28, 1965, but only on the area designated by signs as open to hunting." The third sentence of the first paragraph should read as follows: "Season for hunting of Canada geese will be closed when a kill quota of 25,000 Canada geese has been reached in the Swan Lake area."

R. W. BURWELL,  
Regional Director, Bureau of  
Sport Fisheries and Wildlife.

OCTOBER 8, 1965.

[F.R. Doc. 65-10999; Filed, Oct. 14, 1965; 8:46 a.m.]

## Title 45—PUBLIC WELFARE

### Chapter I—Office of Education, Department of Health, Education, and Welfare

#### PART 118—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

Grants made pursuant to the regulations set forth below are subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (P.L. 88-352).

Part 118 reads as follows:

- Subpart A—Definitions**
- Sec.  
118.1 Definitions.
- Subpart B—Project Proposals**
- 118.2 General provisions.  
118.3 Designation and certification of agency for administration.  
118.4 Purposes.  
118.5 Evidence of involvement of cultural and educational resources.  
118.6 Administration and reporting.  
118.7 Present programs.  
118.8 Proposed services.  
118.9 Qualifications of professional personnel.  
118.10 Adequacy of facilities.  
118.11 Participation of children enrolled in nonprofit private schools.  
118.12 Submission of project proposal.  
118.13 Amendments.  
118.14-118.18 [Reserved]
- Subpart C—Approval of Project Proposals**
- 118.19 Criteria for evaluation of project proposals.  
118.20 Disposition.  
118.21-118.23 [Reserved]
- Subpart D—Federal Financial Participation and Payment Procedures**
- 118.24 Effect of approval of a project.  
118.25 Federal payment procedures.  
118.26 Effect of Federal payments.  
118.27 Extent of Federal participation.  
118.28 Availability of funds for approved projects.  
118.29 Fiscal and auditing procedures.  
118.30 Adjustments.  
118.31 Disposal of records.  
118.32 Cooperative agreements.  
118.33 Eligible expenditures.  
118.34 Funds not expended.  
118.35 Reapportionment.  
118.36-118.39 [Reserved]
- Subpart E—Equipment and Construction**
- 118.40 Acquisition and maintenance of equipment.  
118.41 Grants for construction.  
118.42 Accounting procedures for construction projects.  
118.43 Recovery of payments.  
118.44 Leasing facilities.  
118.45 Shared use of supplementary educational centers.  
118.46-118.48 [Reserved]
- Subpart F—Review Provisions**
- 118.49 State educational agency review and recommendations.  
118.50 Continuing administrative review and program evaluation.

**AUTHORITY:** The provisions of this Part 118 issued under sec. 603, 79 Stat. 57, 20 U.S.C. 883. Interpret or apply secs. 301-308, 601, 603-605, 79 Stat. 39-44, 55, 57-58, 20 U.S.C. 841-848, 881, 883-885.

#### Subpart A—Definitions

##### § 118.1 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965, Public Law 89-10.

(b) "Base period" means the three-year period immediately preceding the period covered by a project proposal.

(c) "Commissioner" means the United States Commissioner of Education.

(d) "Construction" means (1) the erection of new or expansion of existing structures, and the acquisition and installation of fixed or built-in equipment therefor; (2) the acquisition of existing structures not owned by the agency making application for assistance under Title III of the Act; (3) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of fixed or built-in equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(e) "Cultural and educational resources" includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, philanthropic organizations, and educational radio and television.

(f) "Department" means the United States Department of Health, Education, and Welfare.

(g) "Dual enrollment" means shared use of public facilities for instructional purposes under public auspices by teachers or students from public and private nonprofit schools.

(h) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(i) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include supplies, which is defined in paragraph (r) of this section.

(j) "Exemplary educational programs" means educational programs or activities designed to serve as models for regular school programs.

(k) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function, as defined in paragraph (o) of this section, for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public ele-

mentary or secondary schools. That term also includes any other public institution or agency of any State or political subdivision thereof having administrative control and direction of a public elementary or secondary school.

(l) "Nonprofit", as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(m) "Project proposal" means an application for a grant for the planning for, or the establishment, operation, or maintenance of, a supplementary educational center or service submitted to the Commissioner for his approval under Title III of the Act.

(n) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include education beyond grade 12.

(o) "Service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(p) "State" includes, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(q) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(r) "Supplies" means those non-equipment items which are consumed in use or which may not reasonably be expected to last longer than one year.

#### Subpart B—Project Proposals

##### § 118.2 General provisions.

A grant under Title III of the Act will be made to a local educational agency or agencies only upon submission of an application (in the form of a project proposal) for such a grant on such forms as the Commissioner provides and upon approval of the application by the Commissioner.

##### § 118.3 Designation and certification of agency for administration.

(a) *Designation.* Each project proposal and each amendment thereto shall give the official name of the applicant local educational agency, which shall be the agency responsible for carrying out the project.

(b) *Certification.* Each such proposal or amendment shall include as an attachment a certificate by the officer authorized to make and submit the proposal, or amendment, on behalf of applicant to the effect that the proposal or amendment has been adopted by the applicant.

#### § 118.4 Purposes.

(a) In order to stimulate and promote the acceptance of innovative and exemplary educational programs into educational practice, grants will be made under Title III of the Act for supplementary educational centers and services in which such programs may be carried out. Grants may also be made for planning and taking other steps leading to the development of such programs. Priority will be given to assisting those programs which are exemplary and demonstrate educational innovation and which may serve as models for adoption as regular school programs. The providing of such programs may include, if necessary for the success of the project, the acquisition of equipment and supplies, and, if essential to the success of the project, the leasing or construction of facilities.

(b) Grants may be made for innovative and exemplary programs in the following categories: (1) Comprehensive guidance and counseling, remedial instruction, and school health, physical education, recreation, psychological, and social work services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session; (2) comprehensive academic services, and, where appropriate, vocational guidance and counseling, for continuing adult education; (3) the development and conduct of exemplary educational programs, including dual-enrollment programs, for the purpose of stimulating the adoption of improved or new educational programs, and programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (i) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (ii) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices, and putting into use those which show promise of success, and (iii) studying ways to improve the legal and organizational structure for education, and the management and administration of education, in the schools of the State; (4) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or specialized instruction and equipment

for persons who are handicapped or of preschool age; (5) the making available, on a temporary basis, of modern educational equipment and specially qualified personnel, including artists and musicians, to public and other nonprofit schools, organizations, and institutions; (6) the developing, producing, and transmitting of radio and television programs for classroom and other educational use; (7) the providing of special educational and related services to persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the providing of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, and visiting teachers programs; and (8) other specially designed educational programs which meet the purposes of Title III of the Act.

#### § 118.5 Evidence of involvement of cultural and educational resources.

Each project proposal shall include evidence that representatives of appropriate cultural and educational resources have participated in the planning, and will participate in the operation and evaluation, of the project. No such proposal will be approved unless the Commissioner determines that the degree of participation by such resources is sufficient to assure that the proposed project will be effective in substantially increasing the educational and cultural opportunities for persons in the area to be served.

#### § 118.6 Administration and reporting.

(a) *Administration.* Each project shall provide that the activities and services for which assistance under Title III of the Act is sought will be administered by or under the supervision of the applicant.

(b) *Reports and records.* Each project proposal shall provide for the making of an annual report and such other reports, in such form, and containing such information, as the Commissioner may reasonably require to carry out his functions under Title III of the Act and to determine the extent to which the use of funds provided under that Title has been effective in improving the educational opportunities of persons in the area served. The applicant shall keep such records, and afford such access thereto, as the Commissioner may find necessary to assure the correctness of and to verify such reports.

#### § 118.7 Present programs.

(a) *Programs during the base period.* Each project proposal shall contain a description of those programs of a nature similar to the project being proposed which were carried on during the base period in the geographical area to be served.

(b) *Maintenance of the level of funds made available.* Each project proposal shall set forth policies and procedures to

insure that services and activities of the type for which Federal assistance is being sought will not be curtailed, and that Federal funds made available for the project will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, have been made available by the grantee from State and local public sources for the purposes described in section 303 of the Act, and in no case supplant such funds.

#### § 118.8 Proposed services.

Each project proposal shall describe the program to be provided with Federal financial assistance, and how it will meet the educational and cultural needs of persons in the geographical area to be served. It shall also describe the manner in which the project would supplement or improve programs of the same type that were carried on during the base period in the geographical area to be served, or state that it covers programs of a type that were not so carried on.

#### § 118.9 Qualifications of professional personnel.

Each project proposal shall set forth minimum acceptable qualifications, including educational background and experience, of all supervisory, teaching, and consulting personnel so as to assure the Commissioner that the best available talents will be used for proposed assignments.

#### § 118.10 Adequacy of facilities.

Each project proposal shall describe the facilities available for the project. If a project proposal calls for the acquisition, leasing, remodeling, or constructing of facilities, it must show how and why such action is essential for the success of the project.

#### § 118.11 Participation of children enrolled in nonprofit private schools.

Each project proposal shall provide for a degree of participation by or benefit to children who are enrolled in non-profit private schools, in the area to be served, which is consistent with the number of such children. Supplementary educational services, including broadened instructional offerings made available to children enrolled in nonprofit private schools, shall be provided on publicly controlled premises, but also such services may be provided on non-profit private school premises if such action is indicated to assure the success of the project or the effective participation in such services or activities by children enrolled in nonprofit private schools, and if such services are not otherwise provided for such children by the private schools. In connection with the providing of such services, mobile or portable equipment may be temporarily provided on private school premises for such period of time, within the life of the current project, as is necessary for the successful participation of children enrolled in nonprofit private schools, at the

end of which time such equipment shall be removed from such premises. Provisions for supplementary educational services for children enrolled in private schools shall not include the paying of salaries of teachers or other employees of private schools, nor shall they include the placing of equipment other than mobile or portable equipment on private school premises or the construction of facilities for private schools. None of the funds granted under Title III of the Act may be used for religious worship or sectarian instruction.

#### § 118.12 Submission of project proposal.

Project proposals shall be submitted to the Commissioner on or before such dates as he establishes. Each project proposal must, on or before its submission to the Commissioner, also be submitted to the State educational agency for its review and recommendation.

#### § 118.13 Amendments.

Whenever there is any material change in the content or administration of an approved project, or in the organization, policies, or operations of the local educational agency affecting an approved project, the project proposals shall be appropriately amended. The amendment may be treated as a new project proposal, and, if so, will be considered in the next round of applications.

#### §§ 118.14-118.18 [Reserved]

### Subpart C—Approval of Project Proposals

#### § 118.19 Criteria for evaluation of project proposals.

(a) *General criteria.* Each project proposal will be evaluated in terms of educational significance, project design, qualifications of personnel designated or intended to carry out the project, adequacy of designated facilities, economic efficiency, feasibility with regard to the needs and resources of the area to be served, and priorities and other criteria that may be adopted with the advice of the Advisory Committee on Supplementary Educational Centers and Services and announced from time to time by the Commissioner.

(b) *Criteria to assure equitable distribution of assistance within each State.* In order to assure equitable distribution of assistance under Title III of the Act within each State, the Commissioner will also evaluate all project proposals pursuant to the following criteria: (1) The assistance to be provided will be accessible to large numbers of persons within the State; (2) the projects so assisted will be accessible to persons within the various regions within the State to a degree commensurate with the population distribution in such regions; (3) the assistance to be provided will be appropriate to the relative needs of various population groups within the State; (4) the relative financial ability of communities or areas to provide the proposed services and activities has been considered in the development of the project; and (5) the resources of particular

local educational agencies, in terms of personnel, facilities, administrative policies and other factors, will, with effective coordination with relevant educational and cultural resources, be adequate to provide the proposed services and activities.

#### § 118.20 Disposition.

The Commissioner will, on the basis of an evaluation of a project proposal pursuant to § 118.19, (a) approve the project proposal in whole or in part, (b) disapprove the project proposal, or (c) defer action on the project proposal for such reasons as lack of funds or a need for further evaluation. Any deferral or disapproval of the project proposal shall not preclude its reconsideration or resubmission at a later date. The Commissioner will notify the applicant and the appropriate State educational agency in writing of the disposition of the project proposal. For projects approved by the Commissioner, the grant award letter will include the approved budget and grant conditions.

#### §§ 118.21-118.23 [Reserved]

### Subpart D—Federal Financial Participation and Payment Procedures

#### § 118.24 Effect of approval of a project.

An approved project is the basis on which Federal grants are made, as well as the basis for determining the propriety of expenditures made under the project. There will be no Federal financial participation with respect to obligations incurred or personal services rendered before a project proposal has been approved by the Commissioner.

#### § 118.25 Federal payment procedures.

From the amounts apportioned to a State, the Commissioner will pay to each grantee in that State, either in advance or by way of reimbursement, amounts equal to the total allowable expenditures by the grantee under an approved project. Payments will be made in a manner consistent with the nature of the activities and the services under the project and in accordance with such procedures as may be prescribed by the Commissioner.

#### § 118.26 Effect of Federal payments.

Neither the approval of the project proposal nor any payment to the grantee shall be deemed to waive the right or duty of the Commissioner to withhold or recover funds by reason of the failure of the grantee to observe any Federal requirement.

#### § 118.27 Extent of Federal participation.

(a) *Prior activities and services basis.* Federal participation in supplementary educational centers and services will be provided only to the extent that the services and activities provided for in the project proposal are of a type not carried on during the base period in the area served, or that they supplement the quantity or improve the quality of services and activities of the same type car-

ried on during the base period in the geographical area served.

(b) *Monetary basis.* Where a local educational agency has, during the base period, been carrying on activities and services of the type proposed with funds derived from State and local public sources, the degree of Federal financial participation will be determined by the Commissioner taking into account the proposed continued expenditures for services and activities of the type proposed as compared with expenditures for similar activities and services during the base period.

#### § 118.28 Availability of funds for approved projects.

Federal funds apportioned or reapportioned under section 302 of the Act may, as prescribed in the grant award document, be expended for projects which have been approved during the period in which the Federal funds are available. In determining expenditures under approved projects, the grantee will use an obligation basis of accounting whereby binding commitments as adjusted to the actual amount finally paid will constitute the expenditures eligible for Federal financial participation, except that expenditures for personal services and travel will be determined on the basis of the time of the rendering of the services or the performance of the travel. Obligations must be liquidated within a reasonable period of time.

#### § 118.29 Fiscal and auditing procedures.

(a) *Custody of funds.* Each project proposal shall designate the officer who will receive and have custody of project funds.

(b) *Fiscal procedures.* Each grantee receiving Federal funds for an approved project shall provide for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of, and accounting for, the Federal funds paid to it. Accounts and supporting documents relating to project expenditures shall be adequate to permit an accurate and expeditious audit.

(c) *Auditing procedures.* Each grantee shall make appropriate provision for the auditing of project expenditure records, and such records as well as the audit reports shall be available to auditors of the Federal government.

#### § 118.30 Adjustments.

Each grantee shall, in maintaining program expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or local administrative reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Commissioner.

#### § 118.31 Disposal of records.

(a) *General rule.* Subject to the provisions of paragraph (e) of § 118.40, each grantee shall provide for keeping accessible and intact all records pertaining to

the grant: (1) For three years after the close of the fiscal year in which the expenditures are liquidated; (2) until the grantee is notified that such records are not needed for program administrative review; and (3) until the grantee is notified of the completion of the Federal fiscal audit.

(b) *Questioned expenditures.* The records pertaining to any claim or expenditure which has been questioned at the time of audit shall be maintained until necessary adjustments have been reviewed and cleared by the Department.

#### § 118.32 Cooperative agreements.

A grantee may enter into a cooperative agreement or contract to provide services under a project if the services to be so provided, as well as the cooperating institution, organization, or agency, are specified in the project proposal and if the agreement or contract is acceptable to the Commissioner. Such a cooperative agreement or contract will be acceptable only if the Commissioner is assured that the grantee will retain the responsibility for supervision of the project.

#### § 118.33 Eligible expenditures.

Expenditures which are eligible for Federal financial participation are those expenditures which (a) conform to the terms of the approved project, (b) are incurred for activities which supplement instruction for public and nonprofit private school students and teachers that had been provided during the base period, and (c) are clearly identifiable as additional expenditures incurred as a result of the grant program under Title III of the Act.

#### § 118.34 Funds not expended.

In the event that funds previously granted under Title III of the Act have not been expended pursuant to the approved project and, in the judgment of the Commissioner, will not be expended for such purposes, the Commissioner may, upon notice to the grantee, reduce the amount of the grant to an amount consistent with the needs of the grantee. In the event that an excess over the sum actually needed shall have been paid to grantee, the custodian of the project funds shall pay that excess over to the Commissioner.

#### § 118.35 Reapportionment.

In order to provide a basis for reapportionment by the Commissioner under section 302(d) of the Act, each grantee shall submit to the Commissioner, by such date or dates as he may specify, a statement showing the anticipated need during the current fiscal year for the amount previously granted.

#### §§ 118.36-118.39 [Reserved]

### Subpart E—Equipment and Construction

#### § 118.40 Acquisition and maintenance of equipment.

(a) *Title to equipment.* Title to all equipment acquired with Federal funds under an approved project must be

vested in, and retained by, a public agency.

(b) *Use and control.* All equipment acquired under an approved project must be used for the purposes specified in the approved project, and such equipment must be subject to the administrative control of the grantee local educational agency.

(c) *Maintenance and repair of equipment.* Costs of maintaining and repairing equipment purchased under grants pursuant to Title III of the Act shall be eligible for Federal financial participation during the life of the project. It shall be the responsibility of the grantee to make reasonable provision for the maintenance and repair of such equipment.

(d) *Built-in equipment.* The provisions of paragraphs (a), (b), and (c) of this section apply to built-in equipment, which is defined to mean equipment that is permanently fastened to the building and functions as part of the building. Such equipment is eligible for Federal financial assistance if a public agency owns and operates the facility to which such equipment is attached and retains such ownership, or has the right to remove such equipment.

(e) *Inventories of equipment.* Where equipment which costs \$100 or more per item is purchased by the grantee under an approved project, inventories and other records supporting accountability shall be maintained until the grantee is notified of the completion of the Department's review and audit covering the disposition of such equipment. Such equipment may not be sold or exchanged for unlike equipment prior to the expiration of its useful life or the expiration of the project period and all extensions thereof, whichever occurs first.

#### § 118.41 Grants for construction.

(a) *General provisions.* Where essential for the success of a project under section 303 of the Act, Federal financial assistance may be granted for the acquisition, lease, remodeling, or construction of facilities if the estimated cost of such facilities is commensurate with the range and scope of the services to be provided under the proposed project.

(b) *Assurances.* Project proposals which make provision for construction shall contain assurances that: (1) Reasonable provision has been made, consistent with other approved use to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities; (2) upon completion of the construction, title to the facilities will be in and retained by a State or local educational agency, and the building will be operated and used for the educational and related purposes for which it was constructed for a period of not less than twenty years; (3) construction approved pursuant to the project proposal will be undertaken promptly; (4) contracts for the construction approved pursuant to the project proposal will provide that all laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on

similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-276a-5) and that the nondiscrimination in employment clause prescribed by Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), will be incorporated in any contract for construction work as defined in said Executive Order; (5) representatives of the United States Office of Education will have access at all reasonable times to work wherever it is in preparation or progress, and the contractor will provide proper facilities for such access and inspection; (6) the final working drawings and specifications will be submitted to the Commissioner before the construction approved pursuant to the project is placed on the market for bidding; (7) construction work will be contracted for, and performed, according to State and local rules and regulations; (8) the grantee will furnish progress reports and such other information relating to the proposed construction and the grant as the Commissioner may require; (9) architectural or engineering supervision and inspection will be provided at the construction site to insure that the completed work conforms to the approved plans and specifications; (10) the applicant has or will have a fee simple or such other estate or interest in the site, including access thereto, as is sufficient in the opinion of the Commissioner to assure undisturbed use and possession of the facilities for not less than twenty years from the date of the completion of the construction approved pursuant to the project.

(c) *Manner of construction.* Construction must be functional, must be undertaken in an economical manner, and must not be elaborate in design or extravagant in the use of materials in comparison with school facilities of a similar type constructed in the State within recent years.

#### § 118.42 Accounting procedures for construction projects.

Obligations under an approved project for construction must be incurred within twelve months following the approval thereof, except that a longer period may be allowed by the Commissioner upon a showing of good cause.

#### § 118.43 Recovery of payments.

If within twenty years after the completion of any construction with Federal financial participation under Title III of the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, recovery of payments may be had in accordance with the procedure set forth in section 307 of the Act.

#### § 118.44 Leasing facilities.

In the case of a grant to lease a facility the grantee shall have the right to occupy, and to operate, and if necessary to maintain and improve, the premises to be leased during the proposed period of the project.

## RULES AND REGULATIONS

## § 118.45 Shared use of supplementary educational centers.

Any project to be carried out in supplementary educational centers and involving joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

## §§ 118.46-118.48 [Reserved]

## Subpart F—Review Provisions

## § 118.49 State educational agency review and recommendations.

In order to afford State educational agencies a reasonable opportunity to review and recommend project proposals submitted within a State, the Commissioner will not take final action with regard to any project proposal, nor will the Advisory Committee on Supplementary Educational Centers and Services make its final review of any project proposal, until 30 days after the applicable deadline date established by the Commissioner for the filing of project proposals by local educational agencies.

## § 118.50 Continuing administrative review and program evaluation.

*By the U.S. Office of Education.* In order to assist the grantee in adhering to statutory and regulatory provisions and to the substantive legal and administrative requirements, the Commissioner will conduct periodic program reviews and evaluations under Title III of the Act.

Dated: October 4, 1965.

[SEAL] FRANCIS KEPPEL,  
*Commissioner of Education.*

Approved: October 7, 1965.

JOHN W. GARDNER,  
*Secretary of Health, Education,  
and Welfare.*

[P.R. Doc. 65-11034; Filed, Oct. 14, 1965;  
8:49 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 909]

### GRAPEFRUIT GROWN IN ARIZONA; IMPERIAL COUNTY, CALIF.; AND THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

#### Approval of Expenses and Fixing of Rate of Assessment for 1965-66 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Administrative Committee, established under Marketing Agreement No. 96, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, Calif., and in that part of Riverside County, Calif., situated south and east of White Water, Calif., effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses that are reasonable and necessary to be incurred by the Administrative Committee during the period August 1, 1965, through July 31, 1966, will amount to \$150,000;

(b) That the Secretary of Agriculture fix the rate of assessment for such period, payable by each handler in accordance with § 909.41, at three cents (\$0.03) per carton; and

(c) That the Secretary of Agriculture find that unexpended assessment funds, in excess of expenses incurred during such period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

(d) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 12, 1965.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Consumer and Mar-  
keting Service.

[F.R. Doc. 65-11064; Filed, Oct. 14, 1965;  
8:52 a.m.]

[7 CFR Part 982]

### FILBERTS GROWN IN OREGON AND WASHINGTON

#### Proposed Expenses of Filbert Control Board and Rate of Assessment for 1965-66 Fiscal Year

Notice is hereby given of a proposal regarding expenses of the Filbert Control Board and rate of assessment for the 1965-66 fiscal year beginning August 1, 1965, pursuant to §§ 982.60 and 982.61 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Board has recommended a budget of expenses in the total amount of \$20,675 and, based on the volume of filberts estimated to be subject to this regulatory program during the 1965-66 fiscal year, an assessment rate of 0.20 cent per pound of assessable filberts is expected to provide sufficient funds to meet the estimated expenses of the Board.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 8th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

#### § 982.310 Expenses of the Filbert Control Board and rate of assessment for the 1965-66 fiscal year.

(a) *Expenses.* The expenses in the amount of \$20,675 are reasonable and likely to be incurred by the Filbert Control Board during the fiscal year beginning August 1, 1965, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said fiscal year, payable by each handler in accordance with

§ 982.61, is fixed at 0.20 cent per pound of filberts.

Dated: October 11, 1965.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Consumer and Mar-  
keting Service.

[F.R. Doc. 65-11004; Filed, Oct. 14, 1965;  
8:47 a.m.]

[7 CFR Part 1012]

[Docket No. AO-347]

### MILK IN TAMPA BAY MARKETING AREA

#### Decision on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Tampa, Fla., on March 15-19, 1965, pursuant to notice thereof issued on February 16, 1965 (30 F.R. 2263), upon a proposed marketing agreement and order regulating the handling of milk in the Tampa Bay marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator on August 5, 1965 (30 F.R. 9925; F.R. Doc. 65-8376), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision (30 F.R. 9925; F.R. Doc. 65-8376) are hereby approved and adopted as set forth in full herein subject to the following modifications:

1. The seventh paragraph in the "marketing area" discussion is revised.
2. The eighth paragraph in the "producer milk" discussion is revised.
3. Three paragraphs are added following the tenth paragraph in the "producer milk" discussion.
4. The second paragraph in the "other source milk" discussion is revised.
5. Two paragraphs are added following the third paragraph in the "allocation discussion".
6. The "Class I price" discussion is revised.

The material issues of record relate to:

1. Whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs or affects interstate or foreign commerce;

2. Whether the marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued, what its provisions should be with respect to:

- (a) The scope of regulation;
- (b) The classification and allocation of milk;
- (c) The determination and level of class prices;
- (d) Distribution of proceeds to producers; and
- (e) Administrative provisions.

**Findings and conclusions.** The following findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof.

1. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs and affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Tampa Bay marketing area", includes all the territory within the Florida counties of Charlotte, Collier, De Soto, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota.

The production of milk by dairy farmers regularly associated with the above proposed marketing area is insufficient to meet handlers' Class I milk requirements throughout the year. To supplement the local supply, milk is imported from as far away as Wisconsin and Iowa. A Tennessee supplier is a regular source of supplemental milk for Tampa handlers; this milk competes directly with the milk from local producers.

Handlers who would be regulated by the proposed order imported more than 17 million pounds of milk (about five percent of their total receipts) from out-of-state sources in 1964. This milk was shipped from at least seven different states. Moreover, such shipments were not of a sporadic nature but were received in every month during the year. The same was true in 1963.

It is not uncommon for handlers in the proposed marketing area to use nonfat milk solids in producing such Class II products as buttermilk and chocolate drinks. The nonfat milk solids used in these products is purchased from out-of-state sources. These products compete with similar milk products produced from local milk supplies.

The market's requirements for such manufactured products as butter and cheese come almost entirely from out-of-state sources.

2. *Need for an order.* Marketing conditions in the Tampa Bay marketing area justify the issuance of a marketing agreement and order.

There is no over-all plan whereby farmers supplying milk to this marketing area are assured of payment for their milk in accordance with its use. In some segments of the area, there is no procedure whereby farmers may partici-

pate in price determinations necessary for the marketing of their milk which, because of its perishability, must be delivered to the market as it is produced.

A certain amount of reserve milk in excess of the actual fluid sales is necessary to assure an adequate supply of milk at all times. Fluctuations brought on by the seasonal nature of milk production and changes in demand associated with the tourist trade in the Tampa Bay area require that some of the Grade A milk produced for the market be disposed of in manufacturing channels at certain times of the year.

Milk disposed of to manufacturing outlets returns considerably less than that marketed for fluid use. Consequently, a well defined and uniformly applied plan of use classification, with the proper pricing of milk in such uses, is necessary to prevent excess milk from depressing the market price of all Grade A milk. To be successful, the classification and payment for milk in accordance with its use requires the participation of all those engaged in marketing milk in this market. Orderly marketing of the milk produced for fluid consumption requires uniformity of pay prices by handlers and a means whereby both the higher returns from the fluid market and the lower returns resulting from surplus milk may be shared equitably by producers.

Until December 1964, 12 of the 13 counties proposed to be included in the Tampa Bay order were regulated under an order of the Florida Milk Commission. For several years, the State order regulated milk handling in a way which was satisfactory to dairy farmers and other interested parties. However, in April 1964, a ruling of the Supreme Court of the United States limited the State's ability to regulate marketing conditions in the Tampa Bay market.

Indicative of instability in the Tampa Bay market are the abnormal fluctuations in the stated Class I prices since early 1964. From January to September 1964, the Florida Milk Commission's announced Class I price for the Tampa Bay area for milk of 3.5 percent butterfat dropped from \$6.71 to \$6.02.

The Florida Milk Commission's minimum price regulations were discontinued in December 1964. Since that time, some producers and handlers have used a \$6.02 Class I price and a \$5.45 price for Class I sales to military installations as a basis for negotiations. However, not all milk in the market is covered by such negotiations.

The stated Class I prices in the Tampa Bay area are uncertain since producers have no assurance of how they will share in the Class I utilizations of the handlers whom they supply. The utilizations on which handlers pay their producers are not audited or otherwise verified. Moreover, there is uncertainty among producers as to the utilization assigned their deliveries vis-a-vis milk obtained from other sources.

After the State's minimum price regulations were discontinued in December 1964, Independent Dairy Farmer's Association (the principal cooperative as-

sociation in the market) attempted to maintain a degree of market stability. However, its efforts met with only limited success. Some handlers refused to negotiate with the cooperative. Others obstructed the cooperative's efforts to shift the deliveries of its members from plants utilizing such deliveries for manufacturing purposes to plants where higher priced utilizations could be obtained. One handler assigned the milk of producer-members of the cooperative to his Class III uses while using powder and condensed milk to produce Class II products.

In recent months, individual dairy farmers have been subject to continual harassment. A number of farmers, on short notice, lost the regular market for their milk. Others were threatened with the loss of their market. A dairy farmer who was active in organizing, and was an officer of, the Independent Dairy Farmer's Association, was notified by the handler taking his milk that such milk would not be needed after a specified date. The only apparent reason for the loss of his market was his association with the cooperative.

Another handler discontinued receiving milk from all members of the Independent Dairy Farmer's Association on December 31, 1964, when the members notified the handler that the cooperative would thereafter be their marketing agent. From the date of termination, the cooperative has been marketing their milk at other handlers' plants.

The problems of unstable marketing encountered by producers in the proposed marketing area are not uncommon in fluid milk markets where there is no overall program for effectively regulating producer milk supplies. Production of high quality milk in Florida requires a substantial investment. The present unstable marketing conditions could discourage continuation of the necessary production resources and thereby seriously threaten the maintenance of an adequate supply of milk for the market. A Federal order establishing class prices at reasonable levels with a marketwide pool for distributing returns to producers will provide the needed market stability.

There is now a lack of detailed market information relative to procurement of milk and disposition of milk throughout the marketing area. Such information is essential to the effectuation of orderly marketing. The institution of Federal milk order regulation will provide the basis for complete information on receipts and utilization of milk.

A marketing agreement and order for the Tampa Bay marketing area as herein proposed would contribute substantially to the improvement of many of the conditions complained of by producers and would tend to effectuate the declared policy of the Act. A classified pricing plan based on the audited utilization of handlers would provide a uniform system of minimum prices to handlers for milk purchased from producers and a fair division among all producers of the proceeds from the sale of their milk. The

procedures required by the Agricultural Marketing Agreement Act would afford all interested parties the opportunity to take part in determining through public hearing what assistance the marketing system requires in order to insure an orderly market.

3(a). *Scope of regulation.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specified definitions to describe the area involved, and to describe the category of persons, plants and milk products to which the applicable provisions of the order relate.

*Marketing area.* The Tampa Bay marketing area should include all the territory within the Florida counties of Charlotte, Collier, De Soto, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota.

The 1960 Census population of the contiguous 13-county area proposed to be regulated was 1,290,000. The population of Tampa and St. Petersburg, the largest cities in the proposed area, was then 275 thousand and 181 thousand, respectively. Other principal cities and their 1960 populations include Lakeland (41,000), Clearwater (35,000), Sarasota (34,000), Fort Myers (23,000), and Bradenton (19,000).

Because a significant portion of the sales of fluid milk by handlers who would be regulated is in relatively rural communities and because of the substantial population immediately surrounding the various cities, it is important that the marketing area be defined on a county boundary basis rather than on the basis of city boundaries.

More than half of the total population of the proposed marketing area is in Hillsborough and Pinellas Counties, in which are located the cities of Tampa and St. Petersburg, respectively. Most of the larger handlers who would be regulated by the proposed order have their plants in these counties and have route distribution throughout the proposed marketing area.

The 13-county marketing area was proposed by the Independent Dairy Farmer's Association on behalf of its 103 members in the Tampa Bay area and by six proprietary handlers. The 13-county area also was supported by an operating cooperative (Land O'Sun Producers, Inc.) with 11 producer members delivering to its distributing plant in Sarasota. Of the approximately 160 producers supplying handlers who would be regulated by the proposed order, 90 percent (144) ship to the plants of the six handlers and the cooperative at Sarasota.

Approximately 15 handlers (including producer-handlers) have route distribution in the proposed marketing area. Total route distribution by these handlers is about 25 million pounds monthly.

The route distribution of handlers to be regulated is confined almost entirely to the 13-county area. One handler, located in Polk County, distributes 25 percent of his total sales in Polk County, 45 percent in the remaining 12 counties which make up the proposed marketing

area and 30 percent outside the proposed area.

One handler located outside the marketing area has minor route distribution in Hernando County. However, the handler's in-area distribution is less than one percent of his total route distribution and as such would not subject his plant to full regulation by the order.

The seven handlers who supported the 13-county marketing area account by far for the largest proportion of all fluid sales in such area. One of these handlers with a plant at St. Petersburg has route distribution in all 13 counties. Two other handlers also distribute milk in each of the 13 counties but their route distribution in the four southern counties of Charlotte, Collier, De Soto, and Lee is from their Miami plants, which are regulated by the Southeastern Florida order.

Inclusion of specified segments of the proposed marketing area was opposed by a representative of a cooperative whose members deliver to plants in Bradenton and St. Petersburg, and on behalf of the six dairy farmers delivering to a plant located at Fort Myers. The cooperative's representatives requested that any marketing area be limited to Hernando, Pasco, Pinellas, Polk and the portion of Hillsborough County which includes the Tampa metropolitan area. The latter witness asked that the four southern counties of Charlotte, Collier, De Soto, and Lee not be included in the marketing area. This would result in excluding from regulation a plant in Bradenton and the plant in Fort Myers.

The Fort Myers handler has no distribution in De Soto County but competes in Charlotte, Collier, and Lee Counties with Southeastern Florida order handlers and with handlers who would be regulated under this order by virtue of their sales in Hillsborough and Pinellas Counties. Substantially more than half of the sales in the four-county area is from Miami and Tampa plants. Although about one-third of the sales in the four-county area is from handlers' plants regulated by the Southeastern Florida order, these sales have been made in the past from such handlers' Tampa plants. Fort Myers is approximately 25 miles nearer Tampa than it is to Miami. With Federal orders effective in both Miami and Tampa, it is likely that the Fort Myers area will again be served primarily from the Tampa Bay market.

The handler at Bradenton competes only with handlers who would be regulated because of their sales in the St. Petersburg and Tampa areas. These latter handlers are the principal distributors throughout the area in which they compete with the Bradenton handler. To exclude the Bradenton handler from regulation but regulate the handlers with whom he competes would give him an unjustifiable competitive advantage.

The 13-county area forms a single area in which handlers compete for milk sales and it would be inappropriate to exclude any part of such area from the Tampa Bay marketing area.

All producer milk received at regulated plants must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition. Further, the level of class price should be identical on Class I sales inside and outside the marketing area.

The essentials of the classified pricing plan for the Tampa Bay order, and generally applicable to all Federal orders issued by the Secretary, are to establish one level of price to be paid by handlers for milk which is sold as milk or specified milk products for fluid consumption and other prices for the necessary surplus of the market which is disposed of in lower valued fluid products and in manufactured products.

It is necessary that the class prices effective under the Tampa Bay order be established at levels which will bring forth a sufficient supply to meet the demands of milk for the particular marketing area but not necessarily to fulfill the requirements of outside markets. Nevertheless, handlers who are regulated by virtue of their sales in the marketing area may have varying proportions of their sales outside the regulated area. This is a situation normally unavoidable even in the establishment of a new marketing area. Sales areas of regulated and unregulated handlers may overlap, and it would be rarely possible, if at all, to find a line of demarcation around an entire marketing area such that no overlapping occurs. Other considerations in establishment of a marketing area may also preclude inclusion of all sales areas of fully regulated handlers.

The problem of establishing a price to supply adequately the marketing area is thus affected by the activity of handlers in selling milk outside the regulated area and in procuring milk for such sales.

There is no basis in this price determination for discrimination between milk sold inside and outside the marketing area. The milk sold outside by a regulated plant is processed in the same plant and is produced under similar conditions as milk sold in the marketing area. Thus, the milk moving through the regulated handler's plant, whether it is sold inside or outside the marketing area, is part of the same supply and demand situation upon which proper price level determination must be made.

If the price to farmers were higher for milk sold inside than for milk sold outside the marketing area, returns for disposition in the area would be bearing the greater burden of providing the incentive for milk production for both. To the extent such discrimination in pricing at the procurement level is reflected in higher prices to consumers inside than outside the marketing area consumers in the marketing area will be subsidizing consumers outside the marketing area.

Further, it is not intended that Federal regulation be susceptible of manipulation to permit the use of adjacent outside markets as a dumping ground for milk in excess of a market's needs. The fixing of a lower price for milk sold in other markets could have a depressing effect on the price paid farmers by unregulated distributors in such markets. Such action would tend to lower blended returns to dairy farmers supplying the unregulated handlers.

In the course of the operation of an order, the question may arise as to whether piers, docks, wharves and any territory within the boundaries of the designated marketing area which is occupied by Government (Municipal, State, or Federal) reservations, installations, institutions, or other establishments shall be considered as within the marketing area. A proposal was made to include in the order sales by a handler in any such territory or to any such agency. These facilities constitute regular outlets for milk by handlers to be regulated and no evidence was presented at the hearing which would justify their exemption. So that there will be no doubt as to the meaning or the intent of the application of the marketing area definition in the proposed order, it should be indicated that the designated counties in the recommended Tampa Bay marketing area shall include all piers, docks, and wharves connected therewith and any territory wholly or partly within the area which is occupied by Government (Municipal, State, or Federal) reservations, installations, institutions or other establishments.

**Definition of plants.** Essential to the operation of a market-wide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the order market and those plants which do not serve the market in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk. Such distinction is necessary; otherwise, the proceeds of the higher Class I price

would be dissipated by including in the market pool additional quantities of milk which were acquired by handlers primarily for manufacturing purposes. Such dissipated proceeds could accrue to the benefit of producers supplying milk to handlers who do not regularly or dependably furnish the fluid milk needs of consumers in the marketing area. Unless adequate standards of marketing performance are provided to determine which milk and plants will participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting an adequate supply of milk for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Since Class I price increases are generally passed on to the public, such price increases necessitated solely because of inadequate performance standards for regulation would be contrary to the public interest. Therefore, in order to share in market pool funds, it is essential that plant operators perform marketing functions (i.e., deliver milk to market in specified amounts or proportions) which contribute to providing adequate and dependable market supplies. The marketing performance standards are essential provisions of a milk order if it is to attain the statutory purpose of assuring adequate supplies of milk in the most economical manner and in a way that best serves the public interest. The marketing performance standards also minimize the effects of regulation on handlers who have only a minor proportion of their distribution in the regulated market. They do this by exempting such handlers from full regulation.

Any plant, wherever located, may become a pool plant if it meets the marketing performance standards for regulation which at any time are equal for all plants performing the same function. The performance standards for regulation of a plant are an essential means of assuring the regulated market of adequate and dependable supplies of milk. It should be emphasized that these performance standards do not impede the shipment of milk to regulated markets. Quite the contrary, because they require milk to be shipped to the market in order to share in the market pool funds, they encourage milk shipments for Class I use which otherwise might not be made. This incentive is achieved by preventing plants which do not ship milk in accordance with the prescribed standards from sharing in the pool fund. The performance standards are thus the opposite of a barrier to the shipment of milk to the market.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards have been provided for them. A "distributing plant" would be defined as a plant approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month in the marketing area on routes.

In order to qualify as a pool plant, a distributing plant should be required to dispose of on routes in the marketing area not less than 10 percent of its total receipts of Grade A fluid milk products.

It is contemplated that only plants primarily engaged in route distribution of fluid milk products should be qualified as pool plants under this definition. To preserve this distinction, a further condition should be placed on distributing plants. This is that its total route distribution of Class I milk during the month, both inside and outside the marketing area, must be at least 50 percent of its receipts of Grade A milk from dairy farmers and from other plants. Any plant which does not qualify on this basis should be deemed to be primarily a supply plant and its pool status judged by the standards applied to such plants.

A plant from which milk for Class I uses is distributed regularly in the marketing area under normal circumstances may be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant. There may be from time to time plants supplying milk to the marketing area which would not qualify for pool status. Such plants should be required to file reports, make available their records for audit by the market administrator, and be subject to payment alternatives hereinafter discussed if they are not fully subject to regulation.

The proponent cooperative would base the computation of the 50 percent Class I requirement for distributing plants upon receipts from dairy farmers only, rather than upon dairy farmer receipts and receipts from other plants. If receipts from other plants were excluded in the determination of a distributing plant's association with the market, the possibility that such a plant might be, or become, dependent upon supply plant sources for most or all its supply of Grade A milk would not be taken into consideration.

The proponent cooperative proposed also that a distributing plant meeting the 50 percent total Class I requirement would be a pool plant in any month in which its marketing area distribution was 10 percent of its total Class I sales. This could mean that a distributing plant could be included in the pool with as little as five percent of its receipts disposed of in the marketing area. Such a nominal percentage of receipts disposed of in the area does not represent a sufficient association with the market under present circumstances to warrant the pooling of all milk received at such plant.

"Supply plant" is the other plant category for which standards for pooling must be provided. A supply plant would be defined to mean a plant from which a fluid milk product acceptable to the appropriate health authority for distribution in the marketing area as Grade A is shipped during the month to a pool plant.

To qualify for pool plant status, a supply plant should ship to distributing plants which are pool plants at least 50 percent of its receipts of milk

from dairy farmers in any month in the form of fluid milk products. A plant thus shipping the major portion of its receipts from dairy farmers to regulated distributing plants is making a substantial contribution toward providing an adequate supply for the market and hence may reasonably be considered as an integral part of the fluid milk supply for the market. A supply plant from which a proportionately lesser quantity of milk is disposed of in this manner should not, under present conditions, be considered as contributing sufficiently to the market supply to share in the pool funds.

At the present time, there are no supply plants regularly serving the Tampa Bay market, and it is not likely that there will be in the foreseeable future. However, provision should be made so that it will be possible for a supply plant to participate in the pool should there be a regular and continuing need for supply plant milk in the future.

Handlers proposed that the pool plant definition not include any part of a plant in which the operations are separated by a wall or partition from the part in which producer milk is handled. The record does not show that any plant is so constructed and operated in the Tampa Bay market; neither does it show that such a provision could serve any useful purpose in this market where manufacturing operations in handlers' plants are either extremely limited or non-existent. Accordingly, the provision need not be included in the order at this time.

Some milk may be distributed in the marketing area from plants which are fully subject to the classification and pricing provisions of other Federal milk orders. It is not necessary to extend full regulation under an order to such plants which dispose of a major portion of their receipts in another regulated market. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

**Handler.** The primary impact of regulation under an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein provided, the definition includes (a) persons operating pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant for its account; (d) a person in his capacity as the operator of an other order plant; and (e) a producer-handler.

The handler who receives the milk from producers is held responsible under

the terms of the order for reporting receipts and utilization of such milk and for proper payment to producers and to the pool. Inclusion in the handler definition of the operator of any partially regulated distributing plant is necessary in order that the market administrator may require reports to determine the continuing status of such individual and the extent of his obligation, if any, to the producer-settlement fund.

The principal cooperative in the market assumes the responsibility of balancing supplies among various handlers. Other cooperatives might well assume this responsibility in the future. Milk not needed for fluid uses generally can be most economically handled by diversion directly to manufacturing plants. To facilitate such handling, a cooperative is accorded handler status for milk which it causes to be diverted to nonpool plants for its account.

**Producer-handler.** Producer-handler should be defined as any person who:

(a) Operates a dairy farm and a distributing plant from which the Class I disposition (except that represented by nonfat solids used in the fortification of fluid milk products) is entirely from his own farm production;

(b) Receives no fluid milk products from sources other than his own farm production;

(c) Disposes of no Class II products except those produced in his own plant or received from pool plants; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all fluid milk products handled and the operation of the processing and packaging business are his personal enterprise and risk.

The order is not intended to establish minimum prices for producer-handlers, but they should be required to make reports to the market administrator. Such reports are necessary to determine whether the operator continues to meet the producer-handler definition.

The exemption from pricing and pooling of a producer-handler should be limited to bona fide producer-handlers. It is appropriate, therefore, to provide that to maintain producer-handler status, the maintenance, care and management of the dairy animals and other resources necessary to produce milk and the processing, packaging and distribution of milk shall be the personal enterprise and risk of the person involved. The term producer-handler is not intended to include any person who does not accept the responsibility and risk for the operation of the plant in which the milk of his own production is processed and bottled for sale.

Exemption from regulation as a producer-handler must be limited to those persons whose own farm production is the sole source of their Class I disposition (except nonfat solids used to fortify Class I products). To permit them to purchase fluid milk products from other sources without becoming fully regulated would give them an unwarranted competitive advantage over other handlers in the market. This is so because they

would be able to retain the full value of their Class I sales for themselves without assuming the burden of their own surplus. However, as long as they produce their own Class I needs and the necessary reserves and handle their own excess production, producer-handlers will not have a significant advantage over regulated handlers under present marketing conditions.

The attached order provides that producer-handlers may receive Class II products (hereinafter defined) from pool plants and still maintain exempt status. Products included in Class II may be made from milk or milk products not subject to the health standards for fluid milk products. Concentrated milk products from outside sources are the principal source of Class II products when local milk production is insufficient for such uses. The Class II classification will represent a small proportion of handlers' fluid sales since it will not include such major items as milk, flavored milk or skim milk. Permitting producer-handlers to purchase such products from pool plants is a reasonable allowance under present marketing conditions.

Any milk which a regulated handler receives from a producer-handler would be other source milk and, therefore, would be allocated to the lowest use classification after the allocation of shrinkage on producer milk. This is appropriate since milk disposed of to another handler normally would be surplus to the operation of the producer-handler.

**Route.** The term "route delivery" would mean a delivery to retail or wholesale outlets, either directly or through any distribution facility other than a plant (including disposition from a plant store, vendor, or vending machine) of a fluid milk product classified as Class I.

Fluid milk products may be moved from a milk plant to a distribution facility such as a warehouse, loading station or storage plant. The distribution from such latter point would be considered route distribution from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

**Producer.** Producer should mean any person except a producer-handler who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted therefrom to a nonpool plant under certain conditions. The producer definition will provide the necessary distinction between the production of those farmers whose milk will be priced and pooled each month under the Tampa Bay order and the receipts at handlers' plants from all other sources.

**Fluid milk products.** Fluid milk product should mean milk (including frozen and concentrated milk), flavored milk and skim milk. The definition should not, however, include sterilized products in hermetically sealed containers. The items designated as fluid milk products

pursuant to this definition are those products which, when disposed of by handlers, are included as Class I milk.

**Producer milk.** Producer milk is intended to include all milk that is fully regulated by the order. Accordingly, it should be defined as all skim milk and butterfat contained in milk received at a pool plant directly from dairy farmers and milk diverted from a pool plant to a nonpool plant under certain conditions.

Producer milk should not include any milk moved from a farm directly to another order plant since such milk's eligibility to be included under a Federal order would be more appropriately determined at the other order plant where received. In fact, diversion to such plants if permitted could result in the pricing and pooling of the same milk under two orders.

When milk is not needed in the market for Class I purposes, the movement of such milk to a nonpool plant for manufacturing purposes should be facilitated. It is necessary, however, to provide limitations on the amount of milk which may be diverted so that only that milk which is genuinely associated with the market will be diverted and only at those times when it is not needed in the market for Class I purposes.

Producers associated with this market are not expected to produce large quantities of milk in excess of the market's fluid requirements. Diversion provisions are provided herein primarily to enable handlers and cooperative associations to divert producer milk on such occasions as weekends and holidays when the milk is not needed in the market for Class I purposes.

The principal cooperative association proposed that cooperatives be permitted to divert to nonpool plants up to 25 percent of their producer-members' deliveries to all pool plants during the month. This limitation, they claimed, should be sufficient to accommodate diversions under present marketing conditions. In consideration of the anticipated need for diversions, it is concluded that the proposed limitation is appropriate to facilitate the orderly disposition of producer milk.

The cooperative also proposed that proprietary handlers not be permitted to divert producer milk to nonpool plants. In support of this position, its spokesman stated that it is the cooperative's responsibility to balance supplies among handlers in the market and, therefore, they should have the exclusive right to divert milk to nonpool plants. Adopting such a provision, however, could result in marketing difficulties by handlers who do not purchase producer milk through a cooperative. It is reasonable to expect that such handlers also will need to divert milk on such occasions as weekends or holidays and the provisions should enable them to do so.

It is concluded that a proprietary handler should be permitted to divert to nonpool plants up to 25 percent of the quantity of producer milk received at his plant during the month. This will provide a limitation similar to that provided for cooperative associations.

Only that milk genuinely associated with the market should be eligible to be diverted to nonpool plants. Therefore, it is provided that at least 10 days' production of a producer must be received at a pool plant during the month to qualify any of his production in the same month for diversion within the limits described above. A producer shipping on an every other day basis would under this standard be required, in effect, to ship only 5 days. The requirement herein adopted is sufficient to establish a producer's association with the fluid market and still permit the necessary flexibility in diverting milk not needed for fluid use.

Milk diverted to nonpool plants in excess of the limitations provided would not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on a quantity of milk equal to such excess. In such instances, the diverting handler would specify which milk is ineligible as producer milk. If the handler fails to make such designation, thereby making it infeasible for the market administrator to determine which milk was over-diverted, all milk diverted to nonpool plants by such handler would be made ineligible as producer milk.

Since a large proportion of the milk produced for the market will be needed for fluid requirements, diversions of producer milk to nonpool plants should not be necessary for any extended period and it is unlikely that such milk will move great distances from the market. To facilitate the pricing of such milk, therefore, it would be appropriate to consider it as having been received at the plant from which diverted for the purpose of applying location pricing under the order.

It was proposed that the "producer milk" definition exclude deliveries of a dairy farmer to a pool plant during any month in which any milk from his farm is delivered (except by diversion) to a nonpool plant. This would have the effect of excluding from the pool all deliveries by a producer to a pool plant because of a transaction outside the scope of the order.

The Tampa Bay order does not regulate producers. Neither does it regulate dairy farmers or the operators of all nonpool plants that might receive some milk from such dairy farmers during the month. Hence, the market administrator cannot require such persons to submit reports or to maintain and make available to him data relative to their operations. This is because transactions between such persons who are not producers or handlers under the order are not subject to the jurisdiction of the order. In fact, there is no practicable way of providing in the order that the market administrator will be assured that none of the milk of any farmer qualifying as a producer was sold outside the order during the month.

Even if it were practicable, it was not shown that the market would be benefited by excluding from the pool the deliveries to a pool plant by a dairy farmer who during the same month delivered

milk to a nonpool plant. On the contrary, the provision proposed, under present conditions in the Tampa Bay market, could result in gross inequities to both producers and handlers. Accordingly, the proposal therefore is denied.

**Other source milk.** A definition of "other source milk" is necessary to facilitate the application of the order to the various categories of receipts at a regulated plant.

"Other source milk" should include all skim milk and butterfat contained in or represented by (a) fluid milk products and Class II products utilized by the handler in his operation (except producer milk and fluid milk products and Class II products from pool plants and in inventory at the beginning of the month) (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month and (c) any disappearance of nonfluid milk products in a form in which they may be converted into Class I products and which are not otherwise accounted for under the order.

In order to verify the actual utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the disposition records of the plant. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between records of receipts and disposition. Otherwise, the handler with improper records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products in a form in which they can be converted into Class I products. Otherwise, a handler, by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid products would gain a competitive advantage over other handlers in the market.

**Nonpool plant.** A definition of "nonpool plant" is provided to facilitate formulation of the various order provisions as they apply to such a plant. A nonpool plant would mean a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant. Specific categories of nonpool plants would be defined as follows:

(1) "Other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant under this order and a greater volume of fluid milk products is disposed of from such plant in this marketing area on routes and to pool distributing plants than to plants under the other order or in the marketing area of such other order;

(2) "Producer-handler plant" is a plant operated by a producer-handler as

defined in any order (including this order) issued pursuant to the Act;

(3) "Partially regulated distributing plant" is a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed in the marketing area on routes during the month; and

(4) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat was used or disposed of as Class I, Class II, or Class III milk.

Milk is received by handlers directly from dairy farmers, from other handlers, and from other sources. Milk from all these sources is commingled in handlers' plants. It is necessary, therefore, to have a plan for allocating the uses of milk to each source of supply in order to afford a means to establish the classification of producer milk and to apply the classified pricing plan.

The products included in Class I milk are required by health authorities in the marketing area to be obtained from milk or milk products from "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products considerably above the manufacturing milk price. This higher price should be at a level which will yield a blend price to farmers that will encourage production of enough milk to meet market needs.

In accordance with these standards, the Class I milk should include all skim milk and butterfat disposed of in the form of milk, flavored milk, and skim milk. Class I, however, should not include any of the above products which are sterilized and in hermetically sealed containers. Fluid milk products to which extra skim milk solids have been added, and frozen or concentrated milk disposed of for fluid use likewise would be included as Class I milk. Any skim milk and butterfat not accounted for in either Class II or Class III also would be included in Class I.

Class II should include cream, sour cream, half and half, buttermilk, chocolate drink, and acidophilus milk. The distinction between Class II products and products included in Class I is that the marketing area health authorities permit the use of milk products from un-inspected sources in the preparation of products herein designated as Class II. A separate Class II classification is necessary, therefore, so that a separate price may be applied consistent with the somewhat lower value of such products in this market. The products included in Class II are the same as under the Southeastern Florida order.

Any nonfat milk solids added to Class I or Class II products should be converted

to their skim milk equivalent weight for purposes of accounting for the skim milk required to produce such product. Class I or Class II classification, whichever is applicable, would apply to the weight of skim milk and butterfat contained in an equivalent volume of an unmodified product. The remaining portion of the Class I or Class II product, representing added skim milk solids, should be classified as Class III milk on a skim milk equivalent basis.

Class III should be all skim milk and butterfat used to produce ice cream, ice cream mix, and other frozen desserts, eggnog, aerated cream, cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, condensed or dry buttermilk, and any other products not specified as Class I or Class II milk.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. The accounting procedure would be facilitated by providing that month-end inventories of fluid milk products and Class II products be classified in Class II milk. Such inventories would be subtracted, under the allocation procedures, from any available Class II in the following month. The higher use value of any such skim milk and butterfat allocated to Class I in the following month will be reflected in returns to producers.

Inventories should include all the skim milk and butterfat in bulk and packaged fluid milk products and Class II products. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to produce a manufactured dairy product (and classified as Class III milk), such skim milk and butterfat should not be included in inventories.

Inventories of fluid milk products and Class II products on hand at a plant at the beginning of the first month in which the order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer milk receipts to current Class I utilization.

Skim milk and butterfat in fluid milk products and Class II products dumped or disposed of by a handler for livestock feed should be classified as Class III milk. Such outlets often represent the most efficient means for disposing of surplus skim milk. Transportation and handling costs are such that it is uneconomical to ship relatively small quantities of unneeded skim milk to trade outlets for surplus skim milk. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult and impractical to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class III when dumped or disposed of for livestock feed.

It would not be practicable to permit in an unlimited manner the dumping of

skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat, for which no better outlet is available, in other than Class III. Accordingly, the order should clearly specify a Class III classification for skim milk and butterfat dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Handlers proposed a separate classification (Class IV) for all milk, the skim milk portion of which is dumped or disposed of for livestock feed and fertilizer. As proposed, such dispositions would be priced at the butterfat value only, the effect being to allow the skim milk disposition at no cost to the handler. The proposal was opposed by producers.

A provision placing no value on skim milk when dumped or disposed of for fertilizer or livestock feed would not encourage efficient marketing by handlers. Instead, it could relieve them of the responsibility and risk of seeking the best possible outlets for the skim milk in reserve milk supplies by merely destroying it at producers' expense.

Facilities for handling substantial amounts of skim milk in such manufactured products as ice cream and cottage cheese are available in the Tampa Bay area. Hence, handlers should have no difficulty in finding such Class III outlets for excess skim milk. The proposal to establish a separate classification for skim milk for which producers would realize no return is therefore denied.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage". Since shrinkage represents disappearance of milk for which the handler must account but for which no direct return is realized, it should be considered as Class III milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class III at each plant should be 2.0 percent of producer milk (except that diverted to a nonpool plant), plus 1.5 percent of bulk fluid milk products received from other pool plants and unregulated supply plants (exclusive of the quantity for which Class II or Class III utilization is requested by the handler), and less 1.5 percent of bulk fluid milk products transferred to other plants.

Plants which are operated in a reasonably efficient manner and for which accurate records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and will tend to encourage maintenance of adequate records and efficient handling of milk.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class III as shrinkage since these types of receipts are allocated pro rata to class uses along with quantities received from pool plants and producers. Under the

allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class III shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class III uses, since the allocation procedure insures assignment of such milk to Class III in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class III shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from farmers and, therefore, should be classified according to their separate uses. The skim milk and butterfat content of milk products received and disposed of by a handler can be determined through certain testing procedures. Some products such as ice cream and condensed products present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an appropriate means of ascertaining the amount of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of concentrated milk products such as condensed milk or nonfat dry milk should be based on the pounds of milk or skim milk required to produce such product.

Skim milk and butterfat used to produce Class III products should be considered to be disposed of when the Class III product is produced. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator so that verification of such Class III uses may be made. If a handler fails to keep the necessary records for verification purposes, the skim milk and butterfat will be reclassified as Class I milk.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from dairy farmers should be held responsible for establishing the classification of and making payment for such milk. Fixing responsibilities in this manner is necessary to effectively administer the provisions of the order.

Except for the quantities of shrinkage that may be classified in Class III, all skim milk and butterfat for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage that might accrue to handlers who fail to keep complete and accurate records and to assure that dairy farmers receive payment for their milk on the basis of its use. Accordingly, the burden of proof should be on the handler to

establish the utilization of any milk as other than Class I.

**Transfers.** Some Class I or Class II items may be disposed of to other plants for Class III use. It is necessary, therefore, to provide specific rules so that the classification of such transfers may be determined under this order.

Fluid milk products and Class II products transferred from a pool plant to the pool plant of another handler should be classified as Class I milk unless utilization as Class II or Class III milk is claimed for both plants on the reports submitted for the month to the market administrator. However, sufficient Class II or Class III utilization must be available at the transferee plant for such assignment after the allocation of all other source milk at such transferee plant during the month. Moreover, if other source milk of the type to which a surplus value inherently applies (such as nonfat milk solids) has been received at the shipping plant during the month, the skim milk or butterfat in fluid milk products or Class II products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. If the shipping handler receives other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

Fluid milk products or Class II products transferred or diverted to a nonpool plant (other than transfers to the plant of a producer-handler or an other order plant) should be classified as Class I milk unless certain conditions are met. The operator of the nonpool plant, if requested, should make his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to insure proper application of the classification procedures prescribed in the order.

Any Class I utilization disposed of on routes in this marketing area from the nonpool plant should be first assigned to fluid milk products transferred from pool plants and then pro rata to receipts from all other order plants and last to receipts from dairy farmers who the market administrator determines constitute the regular source of Grade A milk for the nonpool plant.

Any Class I utilization disposed of from the nonpool plant on routes in the marketing area of another Federal order should be assigned to fluid milk products transferred or diverted from plants fully regulated by that order, then pro rata to fluid milk products received from plants regulated by this order and all other Federal orders and thereafter to the nonpool plant's regular Grade A dairy farmers.

Any Class I utilization remaining in the nonpool plant after the above assignments should be assigned to the plant's regular Grade A dairy farmers and then

pro rata to unassigned receipts from plants regulated by this order and other orders.

After the above assignments to Class I are made, any remaining receipts of fluid milk products from pool plants would be classified in sequence as Class III and then Class II. Also, any Class II milk which is not assigned pursuant to the above sequence would be classified as Class II.

The method herein recommended for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provision of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

In the case of fluid milk products or Class II products transferred from pool plants to other order plants, specific rules are necessary to provide equitable treatment to the handlers in both orders and coordinate the classification under the orders.

Such products transferred to an other order plant in excess of receipts from such plant in the same category (packaged, bulk designated for surplus disposal, or bulk milk not so designated) should be classified in the comparable classes to which allocated under the other order. If the operators of both the transferor and transferee plants so request, transfers in bulk form should be classified as Class II or Class III to the extent that Class II or Class III utilization (or comparable utilization under such other order) is available for such assignment under the allocation provisions of the transferee order. Such requests should be filed with the respective market administrators with their reports of receipts and utilization for the month.

If information concerning the classification to which the products transferred are allocated under the transferee order is not available to the market administrator for purposes of establishing classification under this order, then classification of fluid milk products and Class II products transferred should be as Class I and Class II, respectively, subject to adjustment when such information is available. If the transferee order provides for more than two classes of utilization, allocations to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes should be classified in a comparable classification as Class II or Class III.

If the form in which a fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification

should be in accordance with the form in which it leaves the transferor plant. This would be the case where the classification of a product differs in the shipping and receiving markets and according identical classification is not possible. These differences exist primarily because the health authorities in different areas have varying requirements with respect to the use of Grade A milk in some milk products. Hence, the order provisions must be designed to accommodate the differences in classification which might exist in this order compared to any other market from which such product is received.

**Allocation.** Because the value of producer milk is based on its classification, the order must prescribe an assignment of receipts from all sources during the month to establish such classification.

The system of allocating handlers' receipts to the various classes must be similar to that adopted in the decisions of the Assistant Secretary issued June 19, 1964 for 76 milk orders, including the Southeastern Florida order and all other Federal orders except those in the Northeast.<sup>1</sup> These decisions were designed to integrate into the regulatory plan of each of the orders milk which is not subject to classified pricing under any order, and to apply the regulatory plan of each of the orders to milk regulated under another order which is disposed of from the other order plant on routes in the marketing area, or is received at a fully regulated plant. Inasmuch as those decisions set forth the standards for dealing with unregulated milk under Federal orders generally, it is desirable that the system of allocation under this order be similar. Further, the treatment of other order milk should conform with the plan included in those decisions so as to coordinate the applicable regulations on all movements of milk between Federal order markets. Producers and handlers recognized the necessity for such coordination and proposed allocation provisions similar to those adopted in other orders.

Except for relatively minor variations to accommodate this individual market's situation, the general scheme of allocation must be based on the considerations of coordination among markets and uniform treatment of unregulated milk in the several markets.

Producers took exception to the provision in the recommended decision giving priority in the allocation sequence to the skim milk and butterfat in Class II products received from nonpool plants. As provided in the recommended decision, such receipts would be subtracted from the available Class II utilization of a handler to the extent of such utilization and then from Class III. Exceptors argued that such receipts should be subtracted first from the available Class III utilization and then from Class II.

When a handler receives a Class II product from nonpool plants in the same month that he utilizes producer milk to

make Class II products, there is usually an intermingling of such products at the plant. However, some handlers may, at times, receive Class II products from nonpool plants for Class III utilizations in their plants. It would be appropriate in such instances to subtract these receipts from nonpool sources from the handler's available Class III utilization if the handler so requested it. Otherwise, it is not possible to ascertain what proportion of the Class II products from each source was actually used in the handler's Class II and Class III dispositions. To give priority in the assignment of a handler's Class II utilization to either the Class II products produced at his plant or those obtained from nonpool sources might often result in inequities, under different circumstances, to both producers and handlers. Because Class II products from all sources are intermingled at the plant and since such products may be disposed of in either Class II or Class III utilizations, equity to both producers and handlers will be best achieved by allocating the available Class II utilization of a handler on a pro rata basis to the skim milk and butterfat in Class II products received from nonpool plants and those produced at the plant.

**Milk received at regulated plants from unregulated plants.** When unregulated milk eligible for Class I distribution in the marketing area is received at a pool plant, provision must be made for its allocation to the total available classification of such pool plant and for providing an appropriate rate of payment to the producer-settlement fund on any such milk allocated to Class I.

The order should provide that fluid milk products moved from an unregulated plant to a pool plant be classified as Class II or Class III milk if so reported by the operator of the regulated plant. Milk may be purchased by a pool plant operator from an unregulated plant either for use in his manufacturing operation or in connection with his Class I or Class II requirements. When the purchase is for Class II or manufacturing uses, the order should accommodate this by providing that such milk be allocated to the indicated class utilization in the pool plant. This treatment of unregulated milk further serves to accommodate unregulated plants which have surplus milk but do not have manufacturing facilities. Hence, it will make available as an outlet any manufacturing facilities of pool plants without involving the unregulated plant in the regulation. When, however, Class II or Class III utilization in a regulated plant is insufficient for the assignment of all fluid milk products from unregulated plants to the agreed manufacturing use, the remainder, of course, must be allocated to Class I.

Other categories of milk receipts assigned first to Class III use (down allocated) should include receipts from producer-handlers, receipts without Grade A certification and reconstituted milk. The reasons for such assignment are explained in subsequent findings on these specific types of receipts.

With respect to the general category of milk received from unregulated plants (not producer-handlers, however) the order should provide that (within limits) unregulated milk received at a pool plant, which is not specifically designated for manufacturing use, be assigned a classification which is pro rata to regulated milk received by the operator of such plant. This should be provided because classification of bulk milk cannot be determined on the basis of its inherent characteristics as either Class I (i.e., in bottles) or as surplus (i.e., as in manufactured products). Its classification depends upon its utilization by the handler who receives it. Unless the regulated handler accepts the milk for Class II or III use, a method as described herein must be provided for assigning the unregulated bulk milk to classes of use. By assigning it pro rata with regulated milk (within limits), its indeterminate character as Class I, II, or III will be recognized up to the limit provided.

A limit must be placed on the amount of unregulated milk which may share full classification with regulated milk. The receipt of unregulated milk in a regulated handler's operation is always a source of danger to the regulatory plan. Handlers often obtain unregulated milk because it is a cheaper source of supply than regulated milk. Unless some limitation is placed on the volume of unregulated milk that may be prorated, a handler with a supply of regulated milk adequate for his Class I requirements could acquire cheaper unregulated milk to increase his manufacturing uses. This milk would share in his Class I utilization while an equal volume of regulated milk would be assigned to the expanded surplus use. This would impair the effectiveness of the regulation.

The limit placed on the amount of unregulated milk to be assigned pro rata with regulated milk is such that when, as a result of proration or assignment, as much as 20 percent of all regulated milk in the handler's plant is assigned to Class II and Class III, all additional unregulated milk will then be assigned to such lower classes. A reserve of milk for fluid requirements on a marketwide basis more or less than 20 percent of all handlers' receipts may be required, depending upon seasonal and other considerations. An individual handler associated with a regulated fluid market (whose main purpose is to furnish Class I milk to the market) will not need unregulated milk for the purpose of maintaining an adequate supply to service Class I sales in amounts which will increase his reserve above 20 percent of his total receipts in any given month. Whenever a handler has a milk supply such that 20 percent of his receipts are in Class II and Class III, he is fully supplied for furnishing a regulated Class I market. Even though a situation could conceivably arise where, because of the disruption of normal supplies, a handler receives milk from unregulated sources in excess of the quantities that may be prorated, the attainment of effective regulation nevertheless requires the imposition of this limit.

<sup>1</sup> Official notice is taken of the decision (29 F.R. 9002) in which is included the amendments affecting the Southeastern Florida milk order.

It is provided that in assigning unregulated bulk milk for purposes of classification, the overall utilization of the handler at all of his plants regulated under the order<sup>2</sup> (rather than the utilization at a single plant) should be used. This is necessary for the same reasons, set forth later in this decision, which apply to receipts of milk from plants regulated by other orders.

Payment at the difference between the Class I and uniform prices should be made by the receiving handler into the producer-settlement fund on the portion of unregulated milk which is assigned to Class I through proration. There can be no question that the Class I price basically should apply to both regulated and unregulated milk used in a fully regulated plant as Class I milk. To attribute any different valuation on the unregulated milk would automatically result in inequity as compared with regulated milk similarly utilized.

Although there is no room for doubt as to the need to attribute a Class I value for any milk so utilized (the minuend), the proper credit to be allowed to milk from unregulated plants is not clear, i.e., what subtrahend should be used in such a payment formula. It may be expected that in many situations a payment at any lesser rate than the difference between the Class I price and the value of such milk as surplus would give unwarranted price advantage to unregulated milk over producer milk similarly utilized.

Milk at unregulated plants may be purchased from dairy farmers on a flat price basis without regard to use classification. Although most of the milk so purchased by the unregulated plant operator may be intended for local distribution outside the regulated market, excess milk supplies on a daily and seasonal basis will arise as they also do in regulated plants.

This frequently leaves excess milk at unregulated plants which is truly surplus to the normal fluid needs of those plants. This situation is accentuated at certain times of the year when there are characteristic seasonal increases in the production of milk without corresponding increases in the demand for milk. If it were not for the sale in the regulated market, such milk would have a higher value to the plant operator than its surplus value. In such circumstances, the operator of such an unregulated plant, including the fringe distributor, has great incentive to "dump" his surplus milk into the regulated market or its supply system at any price higher than a surplus price and thereby obtain a competitive advantage for such milk over regulated milk. Regulated handlers cannot similarly convert otherwise surplus Class III milk into Class I utilization without accounting to the producer-settlement fund at the full difference between these two utilizations, i.e., they account at Class I rather than Class III. There would then ap-

pear to be substantial justification for the same rate of charge against milk from unregulated plants obtained and used in similar circumstances.

Even though surplus milk obviously is available to handlers from time to time, there is no indication that they have exploited their opportunities to use such milk. It is concluded, therefore, in the light of the decision of the Supreme Court in the Lehigh Valley case, and because of the administrative difficulty in determining whether particular milk from an unregulated plant utilized as Class I in this market actually had only a surplus value or cost at source, that the charge should be limited to the difference between the Class I price and the uniform price, both adjusted for butterfat content and the location of the unregulated plant from which the milk was received. Although the use of the uniform price as the subtrahend will not assure complete removal of the price advantage which may exist for some milk for the reasons just stated, it nevertheless will serve to minimize this advantage in such cases, and generally should be an equitable means of providing a reasonable measure of protection to the regulatory plan. If subsequent experience shows that such payment is not protecting the regulatory plan, then, on the basis of specific evidence, another rate of payment or another plan will need to be devised.

As a means of carrying out the equalization provided by market pooling, regulated handlers are required to pay the uniform price to their own producers and, in addition, are required to pay to the producer-settlement fund the full difference between the Class I price and such uniform price on all regulated milk classified as Class I because of its use as fluid milk. Unregulated milk similarly used as Class I milk by a regulated handler likewise should carry a payment to the producer-settlement fund at least at the same rate as that required of regulated milk. If the handler buys regulated milk at a price in excess of the uniform price, he receives no credit for this excess payment in accounting to the producer-settlement fund. Neither should he receive credit for any amount paid for unregulated milk in excess of the uniform price. Both the regulated and unregulated milk, therefore, will be credited at only the uniform price in accounting to the producer-settlement fund.

These payments are not unfair or burdensome to the dairy farmer supplying the unregulated plant, whose milk is used as Class I milk by a regulated handler. The allowance of a credit for milk from unregulated plants used as Class I by the regulated handler at the uniform price level will provide opportunity to the unregulated plant operator to pay his dairy farmers at least the uniform price on these Class I sales. The order cannot, of course, guarantee to the dairy farmer that his purchaser in fact will pay this full uniform price to him.

The order must contain provisions of this kind which serve to adequately relate to the total scheme of regulation

that milk received by regulated handlers which is not subject to full regulation. Otherwise, the very existence of the market pool order may establish the condition which makes impractical the attainment of the regulatory objective of stabilizing the market in the manner prescribed by the statute. Consequently, the Secretary must protect, to the extent consistent with the Act, the regulatory plan in any marketing area against defeat or impairment because of the introduction into the marketing area of milk from unregulated sources which is not subject to full regulation.

There may be instances where a distributor is subject to State milk control and pays the State minimum price on all of his receipts of milk including some that is assigned as Class I in a federally regulated market. The method of assignment and rate of payment into the producer-settlement fund applicable to other unregulated milk must also be applied to this source of "unregulated" milk even though the State regulated distributor may have paid a price for the Class I milk disposed of in the Federal order market that was higher than the uniform price established by the Federal order. This is necessary for the same reasons as apply to any operator of a plant who, for whatever reasons, pays a price for milk higher than the Federal order uniform price.

The evidence does not show that packaged milk is received from unregulated plants. However, in case such a contingency should arise in the future, a rule for dealing with it must be provided. In the absence of evidence as to a specific method of dealing with such receipts, it should be provided that packaged milk received from an unregulated plant will be treated the same as bulk milk.

*Producer-handler surplus, reconstituted milk, non-Grade A milk.* Certain milk by its very nature must be treated as surplus when received at market pool plants regulated by a Federal order and, therefore, it must be assigned a surplus value. One such source is milk received at a regulated plant, in either bulk or packaged form, from a producer-handler (under any Federal order). Another source is milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk. Still another source is milk of manufacturing grade (non-Grade A milk) which is not eligible for disposition for fluid consumption in the market. As to milk from these sources, a payment into the producer-settlement fund at the difference between the Class I and surplus prices must be required of the receiving handler when such milk is allocated to Class I, following "down-allocation" to the extent it can be absorbed in lower priced uses.

In this order as in most other orders, the producer-handler is exempt from the pooling and pricing provisions. This exemption is based on the principle that the producer-handler assumes the burden of disposing of his milk supplies in excess of his Class I milk needs. Being exempt from these provisions of the order

<sup>2</sup> Such total utilization would be subject to certain prior deductions for receipts assigned to the surplus classification as mentioned in prior findings.

makes it possible for the producer-handler to retain the full return from his Class I sales of milk on routes even though such sales are in competition with regulated handlers.

Producer-handlers are primarily engaged in the distribution of Class I and Class II milk. Normally they do not maintain facilities for processing and manufacturing any milk produced in excess of their fluid needs. Because of seasonality of milk production and for other reasons, producer-handlers will produce some milk in excess of their needs. The best available outlets for this surplus milk usually are to fully regulated plants in the market. In view of a producer-handler's limited capacity for utilizing excess supplies of milk, it is often economically advantageous for him to dispose of such excesses at surplus prices to regulated handlers. Such milk, therefore, would be available to regulated handlers at surplus prices. Under these circumstances, it would not be appropriate to allow the regulated handler credit from the producer-settlement fund at more than a surplus price for any such purchases.

Inasmuch as a producer-handler's appropriate competitive relationship with other handlers and with other producers depends upon the producer-handler assuming the burden of his own surplus, an equitable relationship among the several groups would not be achieved if a producer-handler were allowed to dispose of his surplus and obtain the uniform price for such surplus. As long as the producer-handler has the advantage of enjoying the full benefit of his own Class I route sales without sharing them with other producers, he should not also receive Class I benefit from a market pool, at the expense of producers, for any of his milk which he is unable to sell in such way. Surplus milk purchases from producer-handlers operating under another order has the same potential for creating disorderly marketing conditions as surplus from producer-handlers operating under the same order. Therefore, no distinction in treatment for such milk should be provided.

The order should provide, therefore, that milk received from producer-handlers at a pool plant should first be assigned to Class III and then Class II milk at the pool plant. If any is then assigned to Class I, a payment into the producer-settlement fund at the Class I-surplus price difference should be applied. Such rate of payment on receipts from producer-handlers of milk by federally regulated handlers was ratified by Congress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935, and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under such Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Mo., and Fall River, Mass.), placed in effect during this period, contained provisions requiring handlers who

used bulk milk received from producer-handlers in other than the lowest priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the market pool.<sup>2</sup>

A surplus value likewise is properly assigned to reconstituted milk (for instance, the result of combining nonfat dry milk or condensed milk with water). The products used in such reconstitution process are made from milk which always carries a manufacturing, or surplus value. Producer milk used to produce such products is priced as surplus. Since the milk used to produce these products is originally priced as surplus milk, payment into the producer-settlement fund at the difference between the Class I and surplus price is necessary to insure competitive equity with producer milk when reconstituted milk is used in Class I. No recognition should be given to processing costs involved in the manufacture of the products derived from unregulated milk and used in reconstitution, since similar costs are incurred in processing producer milk into such products.

Nonfat dry milk and condensed milk also may be added to fluid milk products to increase the nonfat solids content thus making so-called "fortified" fluid milk products. The incentive for handlers to use nonfat milk solids to fortify fluid milk products arises from the specific demands of consumers. The increased emphasis on low-fat diets and the high nutritional value of nonfat solids in relation to their weight have contributed to the increased demand for added nonfat milk solids in fluid milk products.

Such products are distinguished from reconstituted products, however, in that the resulting volume of fluid product is not increased appreciably since no water is added. The essential economic difference in the use of nonfat milk solids for fortification of fluid milk products versus their use for reconstitution is recognized in the class use definitions. The class use definitions, which provide that the fluid equivalent of the added solids shall be Class III (excepting the minor quantity of increase in volume of the fortified product), and the allocation provisions which would assign the fluid equivalent of solids used to Class III milk, accomplish appropriate accounting and result

<sup>2</sup> 7 U.S.C. section 672, which contains the codified language of section 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a) "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601-608, 608a, 608b, 608c, 608d-612, 613, 614-619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized and confirmed."

in a proper obligation against the handler.

Milk of manufacturing grade is not eligible for Class I uses under the requirements of the health authorities in the market. In dual-purpose plants, however, such milk could find its way into Class I in the pool plant. The appropriate value which attaches to such milk is the surplus price because such price accurately reflects its value as manufactured milk only. The manufacturing value is the price which processors pay for this grade of milk. Receipts at a pool plant of manufacturing grade milk, therefore, should be assigned first to use in Class III. But should any manufacturing grade milk be assigned to Class I, a payment into the producer-settlement fund at the difference between the Class I and surplus prices likewise would be necessary to remove the competitive advantage this milk would have in relation to producer milk. Health authorities require that the source of milk eligible for fluid consumption (Grade A milk) must be identified. Any receipts from unidentifiable sources must therefore be treated as milk of manufacturing grade.

*Receipts from other order plants.* The order should provide for the assignment to Class I (i.e., to be deducted from gross Class I milk in the receiving plant) of 98 percent of packaged fluid milk products received from a fully regulated plant under another order. The remaining two percent should be assigned to Class III. The two percent may be considered as a safeguard against possible "over-assignment" of milk to Class I in the originating market (i.e., the assignment to such market of a transferred quantity which is greater, from a practical standpoint, than normally can be disposed of as Class I in the receiving market). Since it is reasonable to expect some route returns will be associated with intermarket transfers just as there are in connection with milk locally processed in the receiving market, an allowance of two percent for such returns, which must fall into surplus use, should be included to avoid such over-assignment in Class I.

Prior to amendments to orders effective August 1, 1964, a variety of classification methods had applied to intermarket transfers of bulk milk. Such a variety of methods could not achieve the objective of appropriately integrating into the respective regulatory schemes in a uniform and consistent way intermarket shipments of regulated milk. Following the pattern of these amendments, a Class II or Class III classification should apply whenever the parties involved agree that the shipment involved is for one or the other of these class uses. A higher classification would result only when it is found, on verification, that some portion of the milk could not have been used in the classification claimed. The portion then would be reclassified as Class I.

Interorder shipments of bulk milk which are not classified as Class II or Class III by agreement should be classified as Class I, Class II, and Class III on the basis of the marketwide utiliza-

tion of producer milk. Such classification should be limited, however, so that the quantity of milk assigned to Class II and Class III is not greater than the receiving handler has utilized in such classes.

The order should not provide for marketwide proration of milk received from an other order plant when the receiving handler has a greater proportion of milk in Classes II and III than the average in the receiving market. Marketwide proration of receipts of milk from other markets is designed to deal primarily with milk received by a handler who is supplementing his local supply for Class I use. Marketwide proration would tend to encourage unduly and uneconomically the importation of milk by a handler with a higher proportion of milk in Classes II and III than the market average because it would assign a disproportionate share of local producers' milk to such classes.

The particular classification which is given to bulk transfers from other orders will be within the control of the receiving handler and there will be no monetary obligation placed on him for this milk by the receiving market order. Inasmuch as other Federal orders from which milk might be received have provisions corresponding to those herein adopted, the situation will not arise where milk transferred would be classified as Class I in the shipping market and Class II or Class III in this market since the same classification would apply in both markets.

Assigning the bulk receipts from other order plants to the handler's system utilization will prevent a handler with more than one plant from discriminating against either his own producers or those supplying the other Federal order market by importing milk not serving a bona fide need for Class I use. It should be provided, therefore, that assignments of interorder bulk milk should be made over all utilization of milk at all the handler's regulated plants in the receiving market.

Handlers who receive milk from other order plants or from unregulated plants should be precluded from transferring such milk to regulated plants of other handlers at a utilization higher than would have resulted from a direct receipt at the second plant. Unless the order so provides, it would be possible to use a plant with high Class I utilization as a conduit for receiving milk from other order plants and avoid the allocation provisions applicable to milk received directly from other order unregulated plants.

In any month in which bulk milk is received in the market (without agreement as to Class II or Class III classification on the part of the handlers involved in the transfer) it will be necessary that the administrator in the shipping market know the classification of such milk on or about the date when handler reports are due under that order. Since the reporting dates under orders are similar, it is possible the market administrator may not have complete information to compute his exact marketwide utilization of producer milk by the time the classifica-

tion of a transfer is needed by the administrator in the shipping market. It is provided, therefore, that, when necessary, the market administrator will estimate the marketwide utilization of producer milk for purposes of determining the allocation of bulk milk received from other orders. It is provided that such estimate will be made and publicly announced to the nearest whole percentage and, for this purpose, will be final.

Federal orders generally provide that the administrator of any order receiving bulk milk from an other Federal order will promptly notify the administrator of the shipping market of the allocation of such milk so that a compatible classification on such milk may be applied under the shipping orders. Information as to the classification of such milk must be passed on by the respective administrators to the handlers involved so that handlers may know the basis of their obligation on such milk. This order should provide similarly for such interchange of information.

Situations may arise where plants subject to this and another Federal order ship milk back and forth during the same month (i.e., each plant ships milk to the other plant). If such shipments are of a similar nature (packaged milk, bulk milk designated for surplus disposal, or bulk milk not so designated) only transfers of milk between two plants which are not offset by an equal quantity of milk received from the second plant need be considered. Since the classification of this milk in the shipping market is based on its allocation in the receiving market, only the net difference in transferred quantities (in terms of butterfat and skim milk) need be allocated in the receiving market. Otherwise, from a mechanical standpoint, neither market could allocate receipts of milk to classes until all milk had been classified, including the shipment to the other market.

(c) *Class prices*—(1) *Class I price*. The price for Class I milk should be computed by adding \$3.00 to a basic formula price.

The method of adding a differential to a basic formula price in determining the Class I price gives appropriate consideration to the economic factors underlying changes in the general level of prices for milk and manufactured dairy products. Prices for milk used for fluid purposes in the proposed marketing area have a direct relationship to the prices paid for milk used for manufacturing purposes.

A differential over manufacturing milk prices is necessary to cover the extra costs of meeting quality requirements in the production of market milk and transportation costs to the fluid market, and to furnish the necessary incentive for dairy farmers to produce and deliver an adequate supply of quality milk to meet the demand for fluid consumption.

Producers and handlers proposed that the Class I price be computed by adding a specified differential to a basic formula price. As the basic formula price, they proposed the Minnesota-Wisconsin manufacturing milk price series. This series is based on prices paid at a large number

of manufacturing plants in each of the two states. Plant operators report the total pounds of manufacturing grade milk received from farmers, the total butterfat content and total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the announced Minnesota-Wisconsin price is available on or before the fifth day of the following month. The Minnesota-Wisconsin price series is the basic formula price in 61 Federal order markets, including markets that serve as sources of supplemental milk for Tampa Bay handlers.

Producers proposed a Class I differential of \$3.20 and handlers a differential of \$2.50 to be added to the basic formula price.

The Class I price must be established at a level which, in conjunction with the Class II and Class III prices, hereinafter discussed, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the requirements of consumers, including the necessary market reserves. The Class I price also must be in alignment with those prevailing in nearby Federal order markets but should not be at a level which exceeds the cost of obtaining milk of acceptable quality and regular availability from alternative sources.

Proper recognition must be given to the prices at which alternative sources of supply are available, particularly since any milk plant wherever located may become a pool plant under the proposed order by meeting the prescribed qualifications.

Milk qualified for fluid distribution is available for the Tampa Bay market from other Federal order markets and, in fact, Tampa Bay handlers generally depend on other order plants for supplemental supplies. The Tampa Bay Class I price must bear a close relationship to Class I prices under these orders. Otherwise, regulated handlers would turn to these sources for their milk supplies even when local milk is available.

Nashville is the principal source of supplemental milk for the Tampa Bay market. Such supplemental milk is obtained by Tampa Bay handlers from the Nashville Milk Producers Association, a handler under the Nashville Federal order. The cost to Tampa Bay handlers for milk from Nashville and other Federal order markets will not vary significantly. This is because the Class I prices in all such markets must bear a reasonable relationship to each other.

In 1964, the Nashville Class I price averaged \$4.63 per hundredweight for milk of 3.5 percent butterfat. Nashville is 714 miles from Tampa. At 1.5 cents per hundredweight for each 10 miles (the location differential applicable under the Nashville order) the hauling cost for Nashville milk delivered to Tampa is \$1.07. On this basis, the Nashville Class I price f.o.b. Tampa averaged \$5.70 per hundredweight in 1964. This latter price gives no consideration to the various other costs that would be incurred in obtaining a regular and dependable supply of milk from Nashville, or a mar-

ket similarly situated, on a year-round basis.

Producers excepted to findings in the recommended decision that a Class I price 33 cents above the Nashville Class I price f.o.b. Tampa would be appropriate for the Tampa Bay market. They contend that a Class I price at such level would not obtain an adequate supply of milk on a year-round basis for Tampa Bay handlers. A Tampa Bay Class I price, they argued, must give appropriate recognition to the competition of Tampa Bay handlers both in the procurement of supplies and in Class I sales with handlers regulated by the Southeastern Florida order. A Tampa Bay Class I price that is too low in relation to the Southeastern Florida Class I price would place Tampa Bay handlers at a disadvantage in keeping producers in the several areas where the milksheds for the two markets overlap. Likewise, a wide difference between the Class I price in the Tampa Bay and Southeastern Florida orders would give an unwarranted advantage to the handlers in the "under-priced" market.

For the three-year period, 1962 through 1964, the Southeastern Florida order Class I price for milk of 3.5 percent butterfat averaged \$6.37. The Tampa Bay Class I price as proposed by the producer association (basic formula plus \$3.20) for the same three-year period averaged \$6.33. In support of this latter price the producers cited the Tampa Bay area Class I prices of the Florida Milk Commission for 1962, 1963, and 1964. For 1962 and 1963 the Commission's announced Class I price was \$6.71 and for 1964 was \$6.02. These prices, which are for milk containing 3.5 percent butterfat, are not fully comparable to the prices proposed because sales of Class I milk to various outlets, such as to military reservations and to schools, were priced substantially below the Commission's announced Class I price. Hence, if all Class I sales within the definition of the proposed order were included in Class I, the average Class I price paid by handlers would be significantly lower than that announced by the Commission.

The Tampa Bay area is closer geographically to alternative sources of supply from other Federal order markets than is the Southeastern Florida area. Southeastern Florida does not serve as an alternative source of supply for Tampa Bay handlers. Instead, the alternative source of supply for Tampa Bay handlers is from Federal order markets to the north, particularly the Nashville market. Southeastern Florida handlers generally obtain supplemental supplies from the same sources as Tampa Bay handlers. In such instances, the cost to Southeastern Florida handlers is greater than the cost to Tampa Bay handlers for milk from the same sources because of the longer haul. The difference in hauling costs between supplemental supplies of milk from the north to Tampa Bay and Southeastern Florida handlers varies. It was indicated that an additional cost of as much as 30 cents per hundredweight is in-

curred in the extended haul to Southeastern Florida handlers' plants.

The Class I price provided in this decision (basic formula plus \$3.00) averaged \$6.13 in the three-year period, 1962 through 1964. This is 24 cents below the average Southeastern Florida Class I price of \$6.37 for the same period. The Tampa Bay Class I price herein proposed will tend to maintain an adequate supply of milk for the market and, on an annual basis, will be reasonably aligned with the Southeastern Florida Class I price.

Because the Tampa Bay and Southeastern Florida Class I prices are determined by different factors, there will be some month-to-month variation in the amounts by which the Tampa Bay and Southeastern Florida Class I prices differ. In view of this, it should be provided that the Tampa Bay Class I price shall not be more than the Southeastern Florida Class I price in the same month. Such provision gives appropriate consideration to the geographical locations of the Tampa Bay and Southeastern Florida markets in relation to their alternative sources of supply and will tend to avoid any unduly disparate differences between the monthly Class I prices in the two markets.

It would be appropriate to re-examine the Class I pricing structure at a public hearing after the accumulation of at least one year's data on supplies and sales. At that time, sufficient experience under the order will be available to determine whether the Class I price shall be adjusted. Also, sufficient data will be available to determine whether a supply-demand adjuster should be incorporated in the order to automatically vary the Class I price in relation to current supply-sales relationships. For this reason, the Class I price adopted herein will be effective for a period of only 18 months from the effective date of the Class I pricing provision.

A handler proposed a Class I price of \$5.42 (3.5 percent butterfat) for milk sold to a military installation under a contract made prior to the hearing. The Class I price established herein is found to be necessary to insure a sufficient supply of milk for the market. There is no justification on the record for a lower price for a part of the market's Class I sales.

Fluctuations in Class I prices are not uncommon in Federal order markets in which milk is sold on a contract basis. Any risks involved in such fluctuations must be borne by the person willing to sell milk under conditions specified in such contracts. Because a handler was able to obtain milk for a certain Class I outlet below the prevailing Class I price does not justify establishing a separate class or a different price for such Class I outlet under the proposed order.

(2) *Class II price.* The Class II price should be established by adding \$1.00 to the basic formula price. The Class II price thus computed for 1964, would have averaged \$4.18. The actual Class II price under the Southeastern Florida order for the same year was \$4.16.

The method of adding a fixed differential to the basic formula price was proposed by both producers and handlers. Producers proposed a differential of \$1.00 while handlers proposed 85 cents.

As mentioned previously, locally produced milk is not always sufficient to meet handlers' total needs. When local supplies are short, handlers obtain concentrated dairy products from other sources for further processing into Class II products in their plants. The cost of such supplies are affected by transportation over long distances. Local producer milk supplies used in Class II compete directly with these concentrated products delivered to the Tampa Bay area. The order price must be maintained in close alignment with the cost of these alternative supplies.

The Class II price established herein will provide approximately the same price level as provided under the past regulations of the Florida Milk Commission and as now provided in the Southeastern Florida order.

(3) *Class III price.* The Class III price should be established by adding 15 cents to the basic formula price.

The basic formula price reflects the value of manufacturing milk in the major milk production areas of the United States. Because manufactured milk products compete on a national basis, it is important that the price for surplus uses in the Tampa Bay market be in close alignment with similar uses nationally. Producers proposed to add 15 cents to the basic formula price while handlers proposed a Class III price at the level of the basic formula price.

Negligible quantities of milk for Class III uses are produced in Florida. Handlers depend on shipments of products in manufactured form for most of their Class III requirements. On these manufactured products, they incur transportation charges, although at relatively low rates in terms of dollars per hundredweight of milk equivalent.

The Class III price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I and II needs may arise from time to time. The price, however, should not be so low that handlers will be encouraged to seek milk supplies solely for the purpose of converting them into Class III products.

The pricing of reserve milk as herein proposed should reflect the competitive value of reserve milk utilized for manufacturing purposes in the area and will reflect the competitive value of manufacturing milk on a national basis. It provides approximately the same price level for products included in Class III which has prevailed in this market.

(4) *Butterfat differentials.* Because of variations in the butterfat content of milk delivered by individual producers and in milk and milk products sold by different handlers, it is necessary to provide "butterfat differentials" to insure equitable payments for such variations in butterfat.

The Class I and Class II butterfat differentials should be established at 7.5 cents for each one-tenth of one percent

variation in butterfat above or below 3.5 percent. The Class III butterfat differential should be determined by multiplying the Chicago butter price by 0.115.

The butterfat differentials thus provided were proposed by producers and handlers. The Class I and Class II butterfat differentials are the same as those contained in the Southeastern Florida order and represent the value of butterfat when disposed of in the fluid items included in these classes. The Class III butterfat differential of 11.5 percent of the Chicago butter price will facilitate the movement of butterfat in the reserve supply of milk to manufacturing outlets since it will vary from month to month as the price of butter varies.

The Class II and Class III prices and the Class III butterfat differential will not be announced until after the end of the month and should be based on current month prices. Although handlers will not know the exact cost of Class II and Class III milk as it is utilized, they will know that their costs tend to follow daily and weekly dairy production prices and cost of milk to their principal competitors.

The butterfat differential to producers should be calculated at the average of the Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class during the month. Thus, returns to producers will reflect the actual value of their butterfat at the class prices provided by the orders.

(5) *Location adjustments.* Location differentials should be incorporated in the order to provide an appropriate adjustment to the Class I and uniform prices based on the location of any plant at which producer milk or other source milk is received.

Class I milk products, because of their bulky, perishable nature, incur a relatively high transportation cost if such products or the milk used to produce them are moved considerable distances. Milk delivered directly by farmers to plants in or near the urban centers in the defined marketing area, therefore, is worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance, the handler must incur the additional cost of moving that milk to the central market. Under these conditions, the value of producer milk delivered to plants located some distance from the market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the market. Providing location differentials based on the cost of moving milk to the market will insure uniform pricing to all handlers regardless of the location where the milk is procured.

To be equitable to all handlers, the Class I price should not be dependent on the type of plant receiving the milk. To the extent that milk is received at distributing plants from producers at a considerable distance from the market and brought to the market by the handler, he has assumed a transportation cost

which might otherwise be borne by producers. Accordingly, the Class I price should be adjusted downward at such plants to reflect the cost of hauling milk to market.

For milk received at a plant north of Pinellas, Hillsborough, Polk and Osceola Counties and 70 miles or more from the City Hall in Tampa, the Class I price should be reduced 10 cents from 70 to 85 miles plus 1.5 cents for each additional 10 miles or fraction thereof that such plant is from Tampa's City Hall. Milk can move efficiently from farms to pool plants located within the area in which no location differential will be applicable. The distributing plants that would immediately become subject to the Tampa Bay order are within the area in which no location differential would be applicable.

The location differential rates herein proposed are economically sound and representative of the cost of transporting milk to market by efficient means. Also, they are compatible with those effective under the Southeastern Florida milk order.

Uniform prices paid producers supplying plants at which location differentials apply should likewise be adjusted to reflect the value of milk f.o.b. the point to which delivered.

No adjustment should be made in the Class II and Class III prices because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for these uses associated with location of the plant receiving the milk. This is because of the low cost per hundredweight of milk involved in transporting manufactured products or the concentrated products which may be used in Class II products.

To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that, for the purpose of calculating such location differential credit, the skim milk and butterfat in fluid milk products transferred in bulk be assigned in sequence to the available skim milk and butterfat classified in Class I in the transferee plant before any such milk is allocated to Class II or Class III milk at such plant after assignment of local producer milk to Class I. The assignment of milk transferred in bulk would be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the Tampa City Hall.

*Use of equivalent prices.* If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent

any unnecessary interruption in the operation of the order.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the proposed order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure a producer supplying the order market a return based on his pro rata share of the total Class I sales of such market. The "blend" that a producer receives for each month's deliveries will be a price based on the overall utilization of all producer milk received at the pool plants of all regulated handlers during such month.

The uniformity of payments to producers provided under a marketwide pool permits a handler either to maintain a manufacturing operation in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the blended prices payable to his producers as against other producers in the market. The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are exclusively Class I operations and handle little or no surplus milk, some plants which would be subject to the order handle milk for manufacturing purposes. Under these conditions, a marketwide pool in the Tampa Bay marketing area will facilitate the marketing of producer milk. A marketwide pool will make it possible for producer associations to assist in diverting seasonal reserve milk and thus keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist also in apportioning among all producers the lower returns from reserve milk where otherwise this burden would be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk.

*Payments to producers.* Each handler under the order should pay each producer for milk received from such producer, and for which payment is not made to a cooperative association, at not less than the applicable uniform price. Provision also is made for partial payments "in advance" for milk received during each half of the month.

Producers in the Tampa Bay area historically have received partial payments and the proposed payments adopted herein were supported by both producers and handlers. The first partial payment for milk delivered during the first 15 days of the month will be required on or before the 20th day of the month at not less than 85 percent of the uniform price of the preceding month. On or before the second day of the following month for milk received from the 16th to the last day of the month, a second partial payment will be required at the same rate as the first partial payment. Final payment to producers will be required on or

before the 15th day of the month at the applicable uniform price for the preceding month, less partial payments and authorized deductions.

During the first month the pricing provisions are effective there will be no previous month's uniform price on which to base partial payments. For this reason, a minimum partial payment rate of \$4.00 per hundredweight is provided for such month. This amount will approximate the Class II price.

Provision should be made for a cooperative association to receive payment for the producer milk which it causes to be delivered to a pool plant. The taking of title to milk of its members and the blending of proceeds for the sale of such milk will tend to promote the orderly marketing of milk and will assist a cooperative in discharging its responsibility to its members and to the market.

The Act provides for the payment by handlers to cooperatives for milk delivered by them and permits the blending of all proceeds from the sale of members' milk.

The contracts with its members authorize the principal cooperatives in the markets to collect payment for producer milk. Therefore, each handler, if requested by such cooperative association, would pay such association an amount equal to the sum of the individual payments otherwise payable to such producers. Handlers should be required to make payments to the cooperative association for milk received during the month on or before the second day prior to the date payments are due individual producers.

At the time settlement is made for milk received from producers during the month, the handler should be required to furnish to each producer (or his cooperative association) a supporting statement. This statement should show the pounds and butterfat tests of milk received from such producer, the rate of payment for such milk and a description of any deductions claimed by the handler.

**Producer-settlement fund.** All producers will receive payment at the rate of the marketwide uniform price each month and because the payment due from each handler for producer milk at the applicable class prices may be more or less than he is required to pay directly to producers, a method of equalizing this difference is necessary. A producer-settlement fund should be established for this purpose. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers for such milk at the applicable uniform prices would pay the difference into the producer-settlement fund and each handler whose obligation for producer milk is less than the applicable uniform price values would receive payment of the difference from the fund. Provision for the establishment and maintenance of the producer-settlement fund as set forth in the attached order is similar to that contained in all other Federal orders with marketwide pools.

For efficient functioning of the producer-settlement fund, a reasonable re-

serve should be set aside at the end of each month. This is necessary to provide for such contingencies as the failure of a handler to make payment of his monthly billing to the fund or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than four nor more than five cents per hundredweight of producer milk in the pool for the month.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby be distributed to all producers on the market.

**Marketing services.** Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. If a cooperative association is performing such services for its member-producers and is approved for such activity by the Secretary, the market administrator may accept this in lieu of his own service.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to the other provisions of the order. There are no payments to producers to verify on such milk and, therefore, no need to provide the same marketing services as are provided other producers.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producer deliveries reported by the handler are accurate.

An additional phase of the marketing service program is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by providing for the dissemination of current market information on a marketwide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of four cents per hundredweight with respect to receipts of milk from producers for whom he renders such marketing services. Producers' proposal for marketing services would provide a maximum deduction of six cents per hundredweight. Southeastern Florida, however, contains a maximum deduction of four cents. Comparison of the number of producers involved and the expected volume of milk with that of other markets indicates that a four-cent rate is reasonable and should provide the funds necessary to conduct the pro-

gram. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

**Expense of administration.** Each handler operating a pool plant should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, four cents per hundredweight, or such lesser amount as the Secretary may prescribe, on all receipts within the month of milk from producers, including milk of such handler's own production and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of Grade A milk received from dairy farmers at a plant and on other source milk allocated to Class I milk.

The order specifies minimum performance standards that must be met to obtain regulated status. Operators of plants not meeting such standards are required to either (1) make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to the nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the case of unregulated milk which enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among all handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk

on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

**Interest payments on overdue accounts.** Provision is made for the payment of interest on amounts due to the market administrator for each month or portion thereof that such obligation is overdue.

Prompt payment of amounts due to the market administrator is essential to the operation of order provisions. Interest charges will encourage payment of amounts due on or before the specified date. The rate provided herein is reasonable to compensate for the cost of borrowing money in accord with normal business practices.

**Administrative provisions.** Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision, which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term denotes the same meaning. Such terms as are defined in the attached order are common to many other Federal milk orders.

**Market administrator.** Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

**Records and reports.** Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make reports necessary to establish classification of producer milk and payments due therefor. Such reports are necessary for the computation of the uniform price and determination of each plant's continuing status under the order. The maintenance of adequate records is necessary to enable the market administrator to verify receipts and utilization as reported by the handlers and to verify that the several financial obligations arising under the order are fully discharged.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the orders.

Detailed reports to the market administrator and complete records available for his inspection by all handlers

would be used to determine whether the plants of such handlers qualify as pool plants. Reports of handlers operating nonpool plants from which fluid milk products are distributed in the marketing area would also be used by the market administrator to compute the amounts payable to the producer-settlement fund on such unpriced milk.

A cooperative association having authority to market milk for member producers should have available to it information on the use of such milk by individual handlers in order that member milk may be directed to those handlers needing Class I milk. This will promote orderly marketing by enabling the efficient allocation among handlers of available milk supplies, permit the market to be serviced with smaller reserve supplies and assist producers in maximizing their returns. A provision therefore should be included to authorize the market administrator to provide this information when it is requested by such an association. For the purpose of this report, the utilization of member milk in each handler's plant would be prorated to each class in the same ratio as all producer milk is allocated to each class during the month.

It is necessary that handlers retain records to prove the utilization of milk and that proper payments were made therefor. Since books and records of all handlers cannot be completely audited immediately after receipt of the milk, it becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the orders shall terminate. Provision made in this regard is identical in principle with the general amendment (made to all milk orders which were in operation on July 30, 1947), following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision, covering the retention of records and limitation of claims, is equally applicable in this situation and is adopted as a part of this decision.

A proposal of handlers would provide, at a handler's option, for two or more separate accounting and reporting periods during a month. Such a provision had been included in a number of Federal orders to minimize the down allocation of other source milk when such milk was imported for limited periods within a month. By using more than one accounting period a handler could avoid the assignment of other source milk in part of the month to his surplus milk in another part of the month.

Because of the limited pro rata allocation provisions provided herein and in all other Federal orders amended subsequent to the Court's decision in the Lehigh Valley case, the purposes to be accomplished by more than one accounting period during a month are largely removed. In this situation, there was no apparent need shown for such a provision. Accordingly, the proposal is denied.

**Rulings on proposed findings and conclusions.** Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

**General findings.** (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

**Rulings on exceptions.** In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

**Marketing agreement and order.** Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Tampa Bay Marketing Area", and "Order Regulating the Handling of Milk in the Tampa Bay Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered.** That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

**Referendum order; determination of representative period; and designation of referendum agent.** It is hereby directed that a referendum be conducted among producers to determine whether the issuance of the attached order regulating the handling of milk in the

Tampa Bay marketing area, is approved or favored by the producers, as defined under the terms of the proposed order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of August 1965 is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on October 11, 1965.

GEORGE L. MEHREN,  
Assistant Secretary.

Order<sup>1</sup> Regulating the Handling of Milk in the Tampa Bay Marketing Area

DEFINITIONS

Sec.	
1012.1	Act.
1012.2	Secretary.
1012.3	Department.
1012.4	Person.
1012.5	Cooperative Association.
1012.6	Tampa Bay marketing area.
1012.7	Fluid milk product.
1012.8	Distributing plant.
1012.9	Supply plant.
1012.10	Pool plant.
1012.11	Nonpool plant.
1012.12	Route.
1012.13	Handler.
1012.14	Producer-handler.
1012.15	Producer.
1012.16	Producer milk.
1012.17	Other source milk.
1012.18	Chicago butter price.
1012.19	Class II product.

MARKET ADMINISTRATOR

1012.20	Designation.
1012.21	Powers.
1012.22	Duties.

REPORTS, RECORDS AND FACILITIES

1012.30	Reports of receipts and utilization.
1012.31	Producer payroll reports.
1012.32	Other reports.
1012.33	Records and facilities.
1012.34	Retention of records.

CLASSIFICATION OF MILK

1012.40	Skim milk and butterfat to be classified.
1012.41	Classes of utilization.
1012.42	Shrinkage.
1012.43	Transfers.
1012.44	Computation of skim milk and butterfat in each class.
1012.45	Allocation of skim milk and butterfat classified.

MINIMUM PRICES

1012.50	Basic formula price.
1012.51	Class prices.
1012.52	Butterfat differentials to handlers.
1012.53	Location differentials to handlers.
1012.54	Use of equivalent prices.

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders have been met.

APPLICATION OF PRICES

Sec.	
1012.60	Computation of the net pool obligation of each handler.
1012.61	Computation of uniform price.
1012.62	Obligations of handler operating a partially regulated distributing plant.

PAYMENTS

1012.70	Time and method of payment.
1012.71	Butterfat differential to producers.
1012.72	Location differentials to producers and on nonpool milk.
1012.73	Producer-settlement fund.
1012.74	Payments to the producer-settlement fund.
1012.75	Payments from the producer-settlement fund.
1012.76	Marketing services.
1012.77	Expense of administration.
1012.78	Adjustment of accounts.
1012.79	Interest payments.
1012.80	Termination of obligations.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

1012.90	Effective time.
1012.91	Suspension or termination.
1012.92	Continuing power and duty of the market administrator.
1012.93	Liquidation after suspension or termination.

MISCELLANEOUS PROVISIONS

1012.100	Separability of provisions.
1012.101	Agents.

AUTHORITY: The provisions of this Part 1012 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1012.0 Findings and determinations.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Tampa Bay marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or

affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to (i) producer milk (including such handler's own production), (ii) other source milk allocated to Class I pursuant to § 1012.45(a) (3) and (9) and the corresponding steps of § 1012.45(b), and (iii) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Tampa Bay marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

The provisions of §§ 1012.1 to 1012.101, both inclusive, of the proposed order contained in the recommended decision issued by the Deputy Administrator, on August 5, 1965 (30 F.R. 8925; F.R. Doc. 65-8376), shall be and are the terms and conditions of this order as if set forth in full herein subject to the following revisions:

1. Sections 1012.16, 1012.17, 1012.22, 1012.30, 1012.41(b), 1012.43(a), 1012.45(a), 1012.51(a), 1012.60, 1012.61(a), 1012.70(a), 1012.71, 1012.73, and 1012.77 (b) are revised.

2. A new § 1012.19 is added.

DEFINITIONS

§ 1012.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1012.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

§ 1012.3 Department.

"Department" means the United States Department of Agriculture.

§ 1012.4 Person.

"Person" means any individual, partnership, corporation, association or other business unit.

§ 1012.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk producers for its members.

#### § 1012.6 Tampa Bay marketing area.

The "Tampa Bay marketing area", hereinafter called the "marketing area", means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by Government (Municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Charlotte.	Lee.
Collier.	Manatee.
De Soto.	Pasco.
Hardee.	Pinellas.
Hernando.	Polk.
Highlands.	Sarasota.
Hillsborough.	

#### § 1012.7 Fluid milk product.

"Fluid milk product" means milk (including frozen and concentrated milk), flavored milk or skim milk. "Fluid milk product" shall not include sterilized products in hermetically sealed containers.

#### § 1012.8 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month in the marketing area on routes.

#### § 1012.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A is shipped during the month to a pool plant.

#### § 1012.10 Pool plant.

"Pool plant" means a plant (except an other order plant or the plant of a producer-handler) specified in paragraph (a) or (b) of this section:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products received at the plant during the month is disposed of on routes and not less than 10 percent of such receipts is disposed of in the marketing area on routes.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants pursuant to paragraph (a) of this section.

#### § 1012.11 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order

issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1012.10 and a greater volume of fluid milk products is disposed of from such plant in this marketing area on routes and to pool plants qualified on the basis of route distribution in this marketing area than in the marketing area regulated pursuant to such other order.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed in the marketing area on routes during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

#### § 1012.12 Route.

"Route" means a delivery either direct or through any distribution facility other than a plant (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I pursuant to § 1012.41(a)(1).

#### § 1012.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants,

(b) Any person in his capacity as the operator of a partially regulated distributing plant,

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association,

(d) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, and

(e) A producer-handler.

#### § 1012.14 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant from which the Class I disposition (except that represented by nonfat solids used in the fortification of fluid milk products) is entirely from his own farm production;

(b) Receives no fluid milk products from sources other than his own farm production;

(c) Disposes of no Class II products except those produced in his own plant or received from pool plants; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all fluid milk products handled and the operation of the processing and packaging business are his personal enterprise and risk.

#### § 1012.15 Producer.

"Producer" means any person, except a producer-handler as defined in any

order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1012.16 from a pool plant to a nonpool plant.

#### § 1012.16 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the pool plant from which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the pool plant from which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

#### § 1012.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and Class II products from any source except (1) producer milk, (2) fluid milk products and Class II products from pool plants, and (3) fluid milk products and Class II products in inventory at the beginning of the month;

(b) Products other than fluid milk products and Class II products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and

which are not otherwise accounted for pursuant to § 1012.33.

§ 1012.18 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1012.19 Class II product.

"Class II product" means cream, sour cream, half and half, buttermilk, acidophilus milk and chocolate drink.

MARKET ADMINISTRATOR

§ 1012.20 Designation.

The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1012.21 Powers.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

§ 1012.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

- (a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;
- (b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;
- (c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;
- (d) Pay out of the funds received pursuant to § 1012.77 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1012.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;
- (e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request

by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made either reports pursuant to §§ 1012.30 through 1012.32 or payments pursuant to §§ 1012.70, 1012.74, 1012.76, 1012.77, and 1012.78;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, and by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month;

(2) The 5th day of each month the Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and

(3) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1012.45(a)(10) and the corresponding step of § 1012.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1012.45 pursuant to such report, and thereafter any change in such allocation required to correct

errors disclosed in verification of such reports; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1012.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler (except a handler pursuant to § 1012.13 (d) or (e)) shall report to the market administrator for such month with respect to each plant at which milk is received, reporting in detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by:

(1) Receipts from dairy farmers (including such handler's own production);

(2) Fluid milk products and Class II products received from pool plants of other handlers;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1012.16; and

(5) Inventories of fluid milk products and Class II products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing the respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1012.31 Producer payroll reports.

(a) Each handler pursuant to § 1012.13 (a) and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1012.62(b) shall report to the market administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers de-

livering Grade A milk shall be reported in lieu of payments to producers.

#### § 1012.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

#### § 1012.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products in inventory at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

#### § 1012.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION OF MILK

#### § 1012.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1012.30 shall be classified each month pursuant to the provisions of §§ 1012.41 through 1012.45: *Provided*, That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market

administrator that such skim milk or butterfat should be classified otherwise.

#### § 1012.41 Classes of utilization.

Subject to the conditions set forth in § 1012.43, the classes of utilization shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) (2) and (c) (2), (3), and (4) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a Class II product, except as provided in paragraph (c) (2), (3), and (4) of this section; and

(2) In inventory of fluid milk products and Class II products at the end of the month.

(c) *Class III milk*. Class III milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product or Class II product;

(2) Skim milk and butterfat in fluid milk products and in Class II products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products and in Class II products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk represented by the nonfat solids added to a fluid product or Class II product which is in excess of an equivalent volume of such product prior to the addition;

(5) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1012.16) but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products from unregulated supply plants exclusive of the quantity for which Class II or Class III utilization was requested by the handler;

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(6) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1012.42(b) (2).

#### § 1012.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1012.41(c) (5); and

(2) Other source milk exclusive of that specified in § 1012.41(c) (5).

#### § 1012.43 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product or a Class II product from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1012.45(a) (10) and the corresponding step of § 1012.45 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1012.45(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1012.45(a) (9) or (10) and the corresponding steps of § 1012.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product or a Class II product to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted pursuant to § 1012.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants and thereafter to receipts

from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat in fluid milk products so transferred shall be classified as Class III milk to the extent available and the remainder as Class II milk; and

(v) To the extent that Class I or Class III utilization is not assigned to it, the skim milk and butterfat in Class II products so transferred shall be classified as Class II milk.

(c) As follows, if transferred in the form of a fluid milk product or Class II product to another order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III to the extent of the Class II or Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class con-

sisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II or Class III milk; and

(6) If the form in which any fluid milk product is transferred to another order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of §1012.41.

(d) As Class II (to the extent of such utilization in the transferee plant) if transferred to the plant of a producer-handler in the form of a Class II product, unless a Class III classification is requested by the operators of both plants and sufficient Class III utilization is available in the transferee plant.

#### § 1012.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1012.30 and from such reports, shall compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

#### § 1012.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1012.44, the market administrator shall determine the classification of producer milk for each handler for each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1012.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1012.41(c)(4) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product or a Class II product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III (and then Class II), the pounds of skim milk in Class II products received from nonpool plants for which the handler requests a Class III utilization;

(5) Subtract from the pounds of skim milk remaining in Class II and Class III, pro rata to such quantities, the pounds of skim milk in Class II products received from nonpool plants that were not subtracted pursuant to subparagraph (4) of this paragraph;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class III and/or Class II (beginning with Class III unless otherwise specified below) but not in excess of such quantity or quantities:

(i) Receipts of fluid milk products from unregulated supply plants;

(a) For which the handler requests such utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from another order plant in excess of similar transfers to such plant, if Class III or Class II utilization was requested by the operator of such plant and the handler;

(7) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk (and then Class I), the pounds of skim milk in inventory of fluid milk products and Class II products at the beginning of the month;

(8) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (6)(i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (6)(ii) of this paragraph;

(i) In series beginning with Class III, and thereafter from Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1012.22(1) or the percentage that Class II and Class III

utilization remaining is of the total remaining utilization of skim milk of the handler; and

(i) From Class I, the remaining pounds of such receipts;

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and in Class II products received from pool plants of other handlers according to the classification of such products pursuant to § 1012.43(a); and

(12) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section;

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

#### MINIMUM PRICES

##### § 1012.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) at the rate of the Chicago butter price times 0.12 and rounded to the nearest cent.

##### § 1012.51 Class prices.

Subject to the provisions of §§ 1012.52 and 1012.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* For the first 18 months from the effective date of this section, the Class I price shall be the basic formula price for the preceding month plus \$3.00; *Provided*, That such Class I price shall not in any month be greater than the Class I price pursuant to Part 1013 (Southeastern Florida) of this chapter.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus \$1.00.

(c) *Class III price.* The Class III price shall be the basic formula price for the month plus 15 cents.

##### § 1012.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1012.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

- (a) Class I price, 7.5 cents;
- (b) Class II price, 7.5 cents; and
- (c) Class III price, 0.115 times the Chicago butter price for the month.

##### § 1012.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant north of Pinellas, Hillsborough, Polk, or Osceola Counties, Fla., and 70 miles or more from the City Hall in Tampa, Fla., shall be reduced 10 cents and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 85 miles from the Tampa City Hall.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the Tampa City Hall.

##### § 1012.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price that is required.

#### APPLICATION OF PRICES

##### § 1012.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1012.13 (a) and (c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1012.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.45(a) (12) and the corresponding step of § 1012.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a) (7) and the corresponding step of § 1012.45 (b);

(d) Add an amount equal to the difference between the value at the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a) (3) and the corresponding step of § 1012.45 (b);

(e) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a) (9) and the corresponding step of § 1012.45 (b).

##### § 1012.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1012.60 for all handlers who filed the reports pursuant to § 1012.30 for the month, except those in default of payments required pursuant to § 1012.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1012.71 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1012.72;

(d) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1012.60(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight.

##### § 1012.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1012.30 and 1012.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

- (a) An amount computed as follows:
  - (1) The obligation that would have been computed pursuant to § 1012.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk.

There shall be included in the obligation so computed a charge in the amount specified in § 1012.60(e) and a credit in the amount specified in § 1012.74(b) (2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1012.30 a similar report for each non-pool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1012.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or at the Class III price, whichever is higher.

#### PAYMENTS

##### § 1012.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month (not less than \$4.00 for the first month this provision is in effect) per hundred-weight of milk received during the first 15 days of the month, less proper deduc-

tions authorized in writing by such producer;

(2) On or before the 5th day of the following month to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month (not less than \$4.00 for the first month this provision is in effect) per hundred-weight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundred-weight, adjusted pursuant to §§ 1012.71, 1012.72 and 1012.76, subject to the following:

(i) Minus payments made pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1012.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the second day prior to the date on which payments are due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by

the market administrator at his discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

##### § 1012.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1012.45 by the respective butterfat differential for each class.

##### § 1012.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1012.53; and

(b) For purposes of computations pursuant to §§ 1012.74 and 1012.75, the uniform price shall be adjusted at the rates set forth in § 1012.53 applicable at the location of the nonpool plant from which the milk was received.

##### § 1012.73 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1012.62 and 1012.74 and out of which he shall make all payments from such fund pursuant to § 1012.75; *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

##### § 1012.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1012.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) of other source milk for which a value is computed pursuant to § 1012.60(e).

##### § 1012.75 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1012.74(b) exceeds the amount computed pursuant to § 1012.74(a). If, at such time, the bal-

ance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

#### § 1012.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 4 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

#### § 1012.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1012.45(a) (3) and (9) and the corresponding steps of § 1012.45(b); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

#### § 1012.78 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

#### § 1012.79 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1012.74, 1012.76, 1012.77,

and 1012.78 shall be increased one-half of one percent for each month or portion thereof that such obligation is overdue.

#### § 1012.80 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8e(15)(A) of the Act, a petition claiming such money.

#### EFFECTIVE TIME, SUSPENSION, OR TERMINATION

#### § 1012.90 Effective time.

The provisions of this part or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

#### § 1012.91 Suspension or termination.

The Secretary shall suspend or terminate any or all provisions of this part whenever he finds that they obstruct or do not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

#### § 1012.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

#### § 1012.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

## MISCELLANEOUS PROVISIONS

## § 1012.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

## § 1012.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

[P.R. Doc. 65-11005; Filed, Oct. 14, 1965; 8:47 a.m.]

## FEDERAL AVIATION AGENCY

## [ 14 CFR Parts 21, 43, 65, 91, 145 ]

[Docket No. 6958; Notice No. 65-26]

## CHANGE OF NAME OF "PERIODIC INSPECTION" TO "ANNUAL INSPECTION" AND CLARIFICATION OF 100-HOUR INSPECTION REQUIREMENT

## Notice of Proposed Rule Making

The Federal Aviation Agency is considering amending Parts 21, 43, 65, 91, and 145 of the Federal Aviation Regulations to change all references to "periodic inspection" in those parts to "annual inspection." This change would be one of name only, and would not change any existing requirements. Part 91 would also be amended to clarify the 100-hour inspection requirement of § 91.169(b).

Interested persons are invited to participate in the making of these proposals by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before December 13, 1965, will be considered by the Administrator before taking action on the proposed rule. The proposals in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The use of the term "periodic inspection" to refer to the inspection required by Part 91 to be conducted every 12 calendar months had its origin in a series of amendments effective July 17, 1956, published in the FEDERAL REGISTER (21 F.R. 2585-2588) on April 20, 1956. Prior to these amendments, certain aircraft operators were required to obtain, once a year, not only a "periodic inspection" by a certificated mechanic or repair station, but also an "annual inspection" by

a representative of the Administrator or by an appropriately certificated repair station. This latter inspection largely duplicated the "periodic inspection," but was associated with the Administrator's direct control over inspection, and was therefore given the name "annual inspection" to distinguish it from the "periodic inspection," which was conducted entirely by industry. Then, in order to prevent continued duplication of inspection functions, and to leave primary inspection responsibility with industry alone, the Civil Aeronautics Board, in the referenced amendments, eliminated the "annual inspection." This action streamlined the yearly inspection requirements while leaving industry primarily responsible, as before, for the "periodic inspection," with the Civil Aeronautics Authority exercising only supervisory functions.

Because of this background, the term "annual inspection" was closely associated with direct control by the Administrator over the required yearly inspection of aircraft, and the deletion of the term was identified with the shift of primary inspection responsibility to industry. For this reason, it should be noted that the proposed substitution of the term "annual inspection" for the currently used term "periodic inspection" has no relation whatsoever to the original distinction between these terms, but is, rather, simply intended to give a descriptive name to an inspection that is required to be conducted annually. No presently effective inspection requirements or responsibilities would be affected by this proposal. In short, this proposal would in no way reverse, or otherwise affect, the shift of primary inspection responsibility to industry that was accomplished in 1956, nor does it foreshadow other rulemaking action having that effect.

The use of the descriptive term "annual inspection" is felt to be desirable to assist aircraft operators in meeting the present periodic inspection requirement of § 91.169(a), which prohibits aircraft operation unless such an inspection has been conducted within the preceding 12 calendar months. A number of inadvertent violations of this requirement appear to have occurred. The use of the broad term "periodic inspection" to describe the required yearly inspection may have contributed to these violations. This proposal supplements the Agency's efforts to encourage aircraft operators covered by § 91.169(a) to voluntarily adopt the uniform visual periodic inspection reminder described in Advisory Circular AC 91-11, effective August 10, 1965.

It has also become evident that confusion has arisen regarding the applicability of the periodic inspection requirement of § 91.169(a)(1) to persons who meet the 100-hour inspection requirement of § 91.169(b)(1). Because the performance standards of §§ 43.13 and 43.15 are identical for the 100-hour and periodic inspections, it is possible to erroneously conclude that all inspections (including 100-hour inspections) performed under those sections will satisfy

§ 91.169(a)(1) if the 12-calendar-month operating limitation is met. This is not the case. Compliance with § 91.169(a)(1) is met only by an inspection that is performed as a periodic inspection. This requires that it be performed by the holder of an inspection authorization, by a repair station with an airframe rating, or by a manufacturer operating under a production certificate or under an approved production inspection system for the aircraft being inspected. Further, the periodic inspection requirement is not met unless the inspection is recorded, as a periodic inspection, in the required maintenance records. Knowledge of the applicable requirements in Parts 43, 65, and 145 must be presumed on the part of the Part 91 operator. However, because of the degree of possible confusion in this area, it is proposed to add a flush paragraph to § 91.169(a) to specifically describe which inspections conducted under Part 43 to satisfy the 100-hour requirement of § 91.169(b) will also satisfy the periodic (proposed "annual") inspection requirement of § 91.169(a). No substantive change would result from this proposal.

Finally, the alternative created by present §§ 91.169(b)(1) and (b)(2) implies that different inspection performance standards for the 100-hour and periodic inspections may be found in Part 43, which, as stated above, is not the case. In keeping with the above analysis, and because § 91.169(b)(1) covers all inspections under Part 43 (except progressive inspections), it is proposed to delete § 91.169(b)(2). No substantive change would result from this proposal.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 14 of the Code of Federal Regulations as hereinafter set forth.

1. By amending Part 21 by striking the words "a periodic" and inserting the words "an annual" in place thereof, wherever the words "a periodic" appear in § 21.329(c).

2. By amending Part 43 by striking the words "periodic" or "a periodic" (as applicable) and inserting the words "annual" or "an annual" (as applicable) in place thereof, wherever the words "periodic" or "a periodic" appear in §§ 43.3(d), 43.3(1), 43.9 (heading), 43.9 (c), 43.11 (heading), 43.11(a) (lead paragraph), 43.11(a)(4), 43.11(a)(5), 43.11(b), 43.15 (heading), 43.15(a), 43.15(b), 43.15(c), Appendix C, and Appendix D.

3. By amending Part 65 by striking the words "periodic" or "a periodic" (as applicable) and inserting the words "annual" or "an annual" (as applicable) in place thereof, wherever the words "periodic" or "a periodic" appear in §§ 65.91(c)(5), 65.93(a)(1), and 65.95(a)(2).

4. By amending Part 91 as follows:  
(a) By amending § 91.169(a) by adding the following flush paragraph following § 91.169(a)(2):

No inspection performed under paragraph (b) of this section may be substituted for any inspection required by this paragraph unless it is performed by a person authorized to perform annual

inspections and entered as an annual inspection in the required maintenance records.

(b) By amending § 91.169(b) to read as follows:

(b) Except as provided in paragraph (c) of this section, no person may operate an aircraft carrying any person (other than a crewmember) for hire or to give flight instruction for hire unless, within the preceding 100 hours' time in service, it has been inspected in accordance with Part 43 of this chapter and approved for return to service by a person authorized by § 43.7. The 100-hour limitation may be exceeded by not more than 10 hours if necessary to reach a place at which the inspection can be done. The excess time, however, is included in computing the next 100 hours of time in service.

(c) By striking the words "periodic" or "a periodic" (as applicable) and inserting the words "annual" or "an annual" (as applicable) in place thereof, wherever the words "periodic" or "a periodic" appear in §§ 91.169(a) (1), and 91.171(c).

5. By amending Part 145 by striking the word "periodic" and inserting the word "annual" in place thereof, wherever the word "periodic" appears in §§ 145.39 (d) and 145.51(c).

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a) and 1421.

Issued in Washington, D.C., on October 5, 1965.

C. W. WALKER,  
Acting Director,  
Flight Standards Service.

[F.R. Doc. 65-10993; Filed, Oct. 14, 1965;  
8:46 a.m.]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 65-WE-94]

### CONTROL ZONE AND TRANSITION AREA

#### Proposed Designation

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations which would designate controlled airspace in the Wenatchee, Wash., terminal area.

The Agency has completed a comprehensive review of the terminal airspace structure requirements in the Wenatchee, Wash., terminal area and is considering the following airspace actions:

1. Designate the Wenatchee control zone as that airspace within a 5-mile radius of Pangborn Field, Wenatchee, Wash. (latitude 47°24'00" N., longitude 120°12'30" W.), and within 2 miles each side of the Wenatchee VOR 124° radial, extending from the 5-mile radius zone to 10.5 miles SE of the VOR, excluding the airspace within a 1-mile radius of Fancher Field (latitude 47°26'55" N., longitude 120°16'40" W.).

2. Designate the Wenatchee transition area as that airspace extending upward

from 1,200 feet above the surface within 5 miles S and 8 miles N of the Wenatchee 092° and 272° radials, extending from 7 miles W to 14 miles E of the VOR; and within 5 miles SW and 8 miles NE of the 124° radial, extending from the VOR to 14 miles SE of the VOR; excluding that portion within the Moses Lake, Wash., 1,200-foot transition area.

Designation of the control zone and transition area, as proposed, would provide protection for instrument approach, departure, and holding procedures in the Wenatchee, Wash., terminal area.

Certain minor revisions to prescribed instrument procedures would accompany the actions proposed herein, but operational complexities would not be increased nor would aircraft performance characteristics or landing minimums be adversely affected.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Agency, 5651 West Manchester Avenue, Los Angeles, Calif., 90045.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on October 7, 1965.

LEE E. WARREN,  
Acting Director, Western Region.

[F.R. Doc. 65-10994; Filed, Oct. 14, 1965;  
8:46 a.m.]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 63-WE-121]

### CONTROL ZONE, CONTROL AREA, CONTROL AREA EXTENSION, AND TRANSITION AREA

#### Proposed Alteration, Revocation and Designation

On April 27, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 5857) stating that the Federal Aviation Agency was considering amendments to Part 71 of

the Federal Aviation Regulations that would alter the control zone at North Bend, Oreg., revoke the North Bend control area extension, designate a transition area at North Bend and that would alter control area 1420.

Subsequent to the publication of this notice the North Bend non-Federal radio beacon operated by the city of North Bend was type certified by the Federal Communications Commission. The radio beacon, located on the airport, will be operated and maintained by West Coast Airlines. The Federal Aviation Agency has determined that it would be in the public interest to designate controlled airspace for the protection of a special instrument approach procedure predicated upon this facility. Consequently, it is proposed herein to amend the proposals in the original notice dealing with the alteration of the North Bend control zone and the suggested designation of the North Bend transition area.

Persons interested in the proposals set forth in this supplemental notice may submit such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this supplemental notice in the FEDERAL REGISTER will be considered before action is taken on the original proposals as amended herein.

In view of the approach procedure based on the facility referred to above, action would be taken as hereinafter set forth to amend the original proposal to alter the North Bend control zone and the proposed North Bend transition area.

1. The North Bend control zone would be amended to read as follows:

Within a 5-mile radius of North Bend Municipal Airport (latitude 43°25'00" N., longitude 124°14'45" W.); within 2 miles each side of the North Bend VOR 044° True radial, extending from the 5-mile radius zone to 9.5 miles NE of the VOR; within 2 miles each side of the North Bend VOR 111° True radial, extending from the 5-mile radius zone to 9 miles E of the VOR, and within 2 miles each side of a 330° True bearing from the North Bend Airport, extending from the 5-mile radius zone to 8 miles NW of the airport.

2. The North Bend, Oreg., transition area would be designated as follows:

That airspace extending upward from 700 feet above the surface within 2 miles each side of the North Bend VOR 004° True radial, extending from the VOR to 6.5 miles N of the VOR; within 2 miles each side of the North Bend VOR 023° True radial, extending from the VOR to 7 miles NE of the VOR; within 2 miles each side of the North Bend VOR 044° True radial, extending from 9.5 miles to 13.5 miles NE of the VOR; within 2 miles each side of the North Bend VOR 090° True radial, extending from the arc of a 5-mile radius circle centered at the North Bend Airport to 8 miles E of the VOR; within 2 miles each side of the North Bend VOR

111° True radial, extending from 9 miles to 18 miles E of the VOR, and within 2 miles each side of the North Bend VOR 182° True radial, extending from 2 to 5 miles S of the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles N and 8 miles S of the North Bend VOR 090° and 270° True radials, extending from 17 miles W to 12 miles E of the VOR, and within 5 miles NE and 8 miles SW of a 330° True bearing from the North Bend Airport, extending from the airport to 12 miles NW of the airport.

The alterations to the proposed North Bend control zone modification and the proposed transition area are necessary to protect the West Coast Airlines special instrument approach procedure based on the 330° True bearing from the North Bend Airport.

This supplemental notice of proposed rule making is made under the authority of secs. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510) and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on October 8, 1965.

DANIEL E. BARROW,  
Chief, Airspace Regulations  
and Procedures Division.

[F.R. Doc. 65-10995; Filed, Oct. 14, 1965;  
8:46 a.m.]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 65-CE-73]

### FEDERAL AIRWAYS AND REPORTING POINTS

#### Proposed Designation, Extension and Realignment

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations that would designate VOR Federal airways Nos. 313 and 335; that would extend VOR Federal airway No. 44 from Centralia, Ill., direct to Maryland Heights, Mo.; that would realign, in part, VOR Federal airways Nos. 190 and 179; and that would designate the Cape Girardeau, Mo., and Marion, Ill., VOR's as domestic low altitude reporting points.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to: Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for exam-

ination at the office of the Regional Air Traffic Division Chief.

If the above proposals are adopted, the airspace actions as hereinafter set forth would be taken. These airspace actions would be predicated upon the commissioning of the Cape Girardeau and Marion VOR facilities.

1. VOR Federal airway No. 313 would be designated from Malden, Mo., via Cape Girardeau, Mo.; Centralia, Ill.; Decatur, Ill.; to Pontiac, Ill., including an east alternate segment from Cape Girardeau via Marion to Centralia. This airway would provide a bypass route east of St. Louis, Mo., terminal area and in addition would reduce the enroute mileage for aircraft operating between Memphis, Tenn., and Chicago, Ill., by approximately 25 miles.

The east alternate would provide a connecting airway for scheduled flights operating from Cape Girardeau via Marion to terminals north of Centralia.

2. VOR Federal airway No. 335 would be designated from Maryland Heights, Mo., direct to Marion. This airway would provide a direct route for aircraft operating between St. Louis to and over Marion and would relieve some of the traffic congestion in the vicinity of the Troy, Ill., VORTAC.

3. VOR Federal airway No. 44 would be extended from Centralia direct to Maryland Heights. This extension would provide a direct route for aircraft operating between St. Louis to and over Centralia and would aid in the relief of traffic congestion in the vicinity of the Troy, Ill., VORTAC.

4. VOR Federal airway No. 190 segment would be realigned from Farmington, Mo., via Marion to Evansville, Ind. This action would provide better navigational guidance based upon the Marion VOR.

5. Realign VOR Federal airway No. 179 segment from Centralia via Marion to Paducah, Ky. This action also would provide better navigational guidance based upon the Marion VOR.

6. The Cape Girardeau and Marion VOR's would be designated as domestic low altitude reporting points.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 8, 1965.

DANIEL E. BARROW,  
Chief, Airspace Regulations  
and Procedures Division.

[F.R. Doc. 65-10996; Filed, Oct. 14, 1965;  
8:46 a.m.]

#### [ 14 CFR Part 171 ]

[Docket No. 6966; Notice No. 65-27]

### SCOPE OF APPLICABILITY OF THE REGULATION OF NON-FEDERAL NAVIGATION FACILITIES

#### Notice of Proposed Rule Making

The Federal Aviation Agency has under consideration a proposal to amend Part 171 of the Federal Aviation Regulations

to include all non-Federal navigational facilities which support IFR procedures.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket and draft release numbers and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before December 14, 1965, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The purpose of this amendment is to broaden the applicability of Part 171 to include all non-Federal navigation facilities for which IFR procedures are requested. At present Part 171 is only applicable to those facilities that are available to the public.

Expansion of the applicability of Part 171 would provide the FAA and the public with a Rule that sets forth one standard for all non-Federal facilities that are to be used for IFR operations. The Rule would establish standards that assure reliability and thus provide for safe IFR operations at these facilities. This is of special importance since these non-public IFR procedures may be used for the transportation of passengers for hire. As a practical matter, the Rule as so amended would be in accord with present practices since private facilities now having "special" or "restricted" IFR procedures are already in substantial compliance.

The need for "Notices to Airmen" of routine or emergency shutdowns will not exist where a facility is not made available to public IFR operations. Therefore this amendment would also provide that private facilities need not comply with the Notice to Airmen requirements of §§ 171.11(b) (13), 171.31(b) (13), and 171.51(b) (13).

In consideration of the foregoing it is proposed to amend Part 171 as follows:

(1) By striking out the words "public use" where they appear in §§ 171.1, 171.21, and 171.41.

(2) By adding the words "(Private facilities may omit the 'Notices to Airmen')" before the period at the end of §§ 171.11(b) (13), 171.31(b) (13), and 171.51(b) (13).

This amendment is proposed under the authority of sections 305, 307, 313(a), 601 and 606 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1348, 1354(a), 1421, 1426).

Issued in Washington, D.C., on October 6, 1965.

RICHARD B. LENG,  
Director,  
Installation and Materiel Service.

[F.R. Doc. 65-10997; Filed, Oct. 14, 1965;  
8:46 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[ 47 CFR Part 73 ]

[ Docket No. 16186 ]

## TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

### Order Extending Time for Filing Comments and Replies

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Oskaloosa, Ottumwa, Perry, Marshalltown, Knoxville, Carroll, Waterloo, Oelwein, and Charles City, Iowa); Docket No. 16186, RM-659, RM-803.

1. On September 10, 1965, the Commission issued a notice of proposed rule

making (FCC 65-788) in the above-entitled matter inviting comments on two conflicting petitions for rule making to amend the FM Table of Assignments filed by Palmer Broadcasting Co. and Black Hawk Broadcasting Co. Comments were invited on the two petitions and on a possible solution to the conflict. The time for filing comments was specified as October 11, 1965, and for reply comments as October 26, 1965. On October 7, 1965, Palmer and Black Hawk jointly petitioned for an extension of time for filing comments and reply comments to October 18, 1965, and November 2, 1965, respectively. They state that a resolution of the conflict has been found but that insufficient time is available to put it into final form.

2. We are of the view that the requested extension is warranted in this

case and would serve the public interest. Accordingly, notice is hereby given that the time for filing comments in this proceeding is extended to October 18, 1965, and for reply comments to November 2, 1965.

3. This action is taken pursuant to the authority contained in sections 4(i), 5(d) (1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d) (8) of the Commission's rules and regulations.

Adopted: October 11, 1965.

Released: October 12, 1965.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[P.R. Doc. 65-11049; Filed, Oct. 14, 1965;  
8:50 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

Office of the Secretary

[Order 167-67]

### COMMANDANT, U.S. COAST GUARD

#### Delegation of Authority

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 and 14 U.S.C. 631, and pursuant to the authority delegated to me by Treasury Department Order No. 190 (Revision 2), there is hereby transferred to the Commandant, U.S. Coast Guard the function of the Secretary of the Treasury contained in Executive Order 10977, concerning the awarding of the Armed Forces Expeditionary Medal to Coast Guard military members.

As provided in section 2 of Executive Order 10977, this medal shall be awarded in accordance with uniform regulations issued by the Department of Defense.

Dated: October 7, 1965.

[SEAL] TRUE DAVIS,  
Assistant Secretary of the Treasury.

[P.R. Doc. 65-11047; Filed, Oct. 14, 1965;  
8:50 a.m.]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

### BRIGHAM CITY AND MURRAY, UTAH

#### Consolidation of District Offices

Notice is hereby given that the Brigham City District Office, Brigham City, Utah, and the Murray District Office, Murray, Utah, are abolished. A new office established at Salt Lake City will assume all responsibilities of the former Brigham City and Murray District Offices. The consolidation of district offices does not affect the boundaries or status of grazing districts (U-1 and U-2), nor does it affect the responsibilities of the separate advisory boards and their members.

A suboffice of the Salt Lake District will be retained at Brigham City, Utah, to serve the public in Box Elder and Rich Counties. It will furnish, generally, the same type of service as the former Brigham City District Office, but organizationally it will be under the direction of the new Salt Lake District Office. It will operate in the former Brigham City District Office location, Box Elder County Courthouse, Brigham City, Utah.

These changes are effective October 20, 1965.

The consolidated office will be known as the Salt Lake District Office and is located at 1750 South Redwood Road, Salt Lake City, Utah. The office will be

open to the public between the hours of 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

CHARLES H. STODDARD,  
Director.

OCTOBER 11, 1965.

[P.R. Doc. 65-11026; Filed, Oct. 14, 1965;  
8:48 a.m.]

### NEW MEXICO

#### Consolidation of Grazing Districts No. 1 and No. 7 and Farmington and Albuquerque District Offices

Notice is hereby given that New Mexico Grazing Districts No. 1 and No. 7 and Bureau of Land Management district offices at Farmington and Albuquerque, N. Mex., are being consolidated.

By virtue of the authority vested in the Secretary of the Interior by the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, and delegated in this instance to the Director, Bureau of Land Management, the lands in New Mexico Grazing District No. 7 are hereby transferred to New Mexico Grazing District No. 1 and New Mexico Grazing District No. 7 is abolished effective December 31, 1965.

The consolidation of these grazing districts will require reorganization of the district advisory boards in accordance with the provisions of the Federal Range Code as found in 43 CFR, Subpart 4114.

The district offices at Albuquerque, N. Mex., and Farmington, N. Mex., will also be consolidated, designated as the Albuquerque District Office, with headquarters in Albuquerque and continuation of a suboffice in Farmington.

These decisions shall become effective January 1, 1966.

CHARLES H. STODDARD,  
Director.

OCTOBER 11, 1965.

[P.R. Doc. 65-11027; Filed, Oct. 14, 1965;  
8:49 a.m.]

### NEW MEXICO

#### Consolidation of Grazing Districts No. 3 and No. 4

Notice is hereby given that New Mexico Grazing Districts No. 3 and No. 4 are being consolidated.

By virtue of the authority vested in the Secretary of the Interior by the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, and delegated in this instance to the Director, Bureau of Land Management, the lands in New Mexico Grazing District No. 4 are hereby transferred to New Mexico Grazing District No. 3 and New Mexico Grazing District No. 4 is hereby abolished.

The consolidation of these grazing districts will require reorganization of the district advisory boards in accordance with the provisions of the Federal Range Code as found in 43 CFR, Subpart 4114.

The decisions shall be effective upon publication of this order in the FEDERAL REGISTER.

CHARLES H. STODDARD,  
Director.

OCTOBER 11, 1965.

[P.R. Doc. 65-11028; Filed, Oct. 14, 1965;  
8:49 a.m.]

### Bureau of Reclamation

[Public Notice 83; Amdt.]

#### YUMA IRRIGATION PROJECT, ARIZONA-CALIFORNIA RESERVATION DIVISION

#### Annual Operation and Maintenance Charges and Annual Water Rental Charges

SEPTEMBER 3, 1965.

The first paragraph of section 1 of Public Notice No. 83 entitled Public Notice of Annual Operation and Maintenance Charges and Annual Water Rental Charges, issued November 30, 1964, for the Reservation Division of the Yuma Irrigation Project, is hereby amended as of January 1, 1965, as follows:

1. Annual operation and maintenance charges for lands under public notice, reservation division. The minimum annual operation and maintenance charge for the Calendar Year 1965, and thereafter until further notice against all lands of the Reservation Division under public notice shall be \$13.00 per irrigable acre, whether water is used or not, payment of which will entitle the water user to 8 acre-feet of water per acre on certain sandy areas shown on the list attached to Public Notice No. 73 dated December 1, 1955, as amended February 16, 1956, and to 5 acre-feet of water per irrigable acre on all other lands of the Division under public notice. Additional water, if available, will be furnished at the rate of \$2.75 per acre-foot payable in advance. Credit equivalent to the amount paid for additional water unused prior to the end of any calendar year will be applied against the minimum charges for water for the following calendar year. No credit will be given for water purchased during any calendar year at the minimum charge but undelivered at the end of said calendar year.

A. B. WEST,  
Regional Director.

[P.R. Doc. 65-11001; Filed, Oct. 14, 1965;  
8:47 a.m.]

**Fish and Wildlife Service**

[Docket No. A-339]

**KENNETH TAPP****Notice of Loan Application**

Kenneth Tapp, Tebenkof Bay, Alaska, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 36-foot wood vessel to engage in the fishery for salmon.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

DONALD L. MCKERNAN,  
*Director,*  
*Bureau of Commercial Fisheries.*

OCTOBER 12, 1965.

[P.R. Doc. 65-11039; Filed, Oct. 14, 1965; 8:47 a.m.]

[Docket No. A-341]

**JACK WILLIFORD****Notice of Loan Application**

Jack Williford, Kenai, Alaska, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 32-foot wood vessel to engage in the fishery for salmon and halibut.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated oper-

ations of the vessel will or will not cause economic injury or hardship.

DONALD L. MCKERNAN,  
*Director,*  
*Bureau of Commercial Fisheries.*

OCTOBER 12, 1965.

[P.R. Doc. 65-11039; Filed, Oct. 14, 1965; 8:50 a.m.]

**FEDERAL AVIATION AGENCY**

[OE Docket No. 65-WE-4]

**SKYLINE DEVELOPMENT CO.****Affirmation of Determination of No Hazard to Air Navigation**

The Federal Aviation Agency was notified on April 21, 1965, that the Skyline Development Co., Burlingame, Calif., proposed to construct an apartment building in Millbrae, Calif., at latitude 37°34'57" N., longitude 122°24'07" W. The elevation of the structure would be 741 feet above mean sea level (AMSL) (134 feet above ground).

On June 16, 1965, the Western Regional Office of the Federal Aviation Agency after making an extensive aeronautical study of the proposal (Aeronautical Study No. WE-OE-4600), issued a determination that the proposed structure would not be a hazard to air navigation. This conclusion was reached after it was decided that the proposed apartment building would not adversely affect visual flight rules operations or the instrument flight rules operations, procedures, or minimum flight altitudes utilized by pilots operating to or from the San Francisco International Airport.

On July 15, 1965, the Millbrae Association for Residential Survival, by Mr. Dean G. Elchinoff, President, submitted a petition for review of the determination pursuant to § 77.37 of the Federal Aviation Regulations (30 F.R. 9779).

The petition for review of the determination was granted on August 6, 1965 (30 F.R. 10065), to be conducted on the basis of written materials pursuant to § 77.37(c)(1) of the Federal Aviation Regulations.

This review has included a comprehensive examination of all material developed during the regional aeronautical study. In addition, the site of the proposed structure has been reexamined, the surrounding terrain and existing structures reinspected and a new study made of the flight paths of aircraft arriving and departing the San Francisco Airport. Finally, the approaches to Runway 1 were studied by flight test, and additional discussions were conducted with the construction sponsor, petitioner, and other interested persons.

As a result of this exhaustive review, we have concluded that the proposed structure which is the sole consideration of this study, would not require a change in aeronautical operations, procedures or flight altitudes in the San Francisco

area, and accordingly would not have an adverse effect upon aeronautical operations at the San Francisco Airport.

In reaching the above conclusion, we have given careful consideration to the claim made by the petitioner that the no hazard finding issued by the Director of the Western Region resulted from an improper evaluation of the traffic operating at the airport and that it is erroneous to weigh relevant aeronautical considerations in terms of percentages. After independently studying the traffic situation existing at the San Francisco International Airport, we conclude that the Director, Western Region, properly evaluated the traffic operating at the airport. In making the decision, we also stress the point that existing structures are the governing factors with respect to altitudes flown and that the proposed structure would not alter this condition or otherwise adversely affect aeronautical operations in the area. The height of the terrain and other objects in the area of the proposed building is not considered outweighed since these objects are the controlling factor in today's operation at the San Francisco International Airport and no changes in current instrument flight rules operations, procedures, or minimum flight altitudes would be required to accommodate the structure. We consider the information on the infrequent use of Runway 1 only as relevant supporting information used in our consideration.

The petition further claims that the determination is in error since it fails to consider the effect acceptance of this proposal would have on other building proposals that will result in this area. Stated another way, the petitioner fears that if this proposal is found to be aeronautically acceptable, that it will act as a chain for the construction of other tall buildings, that collectively will constitute a hazard to air navigation. At the present time, the only matter pending before the Administrator is the proposal by the Skyline Development Co. to construct a single structure unit at the location cited above. Accordingly, we are unable to study any other proposed structure in this area until we are furnished specific information as to the proposed location and height.

In summary, this review is restricted to a consideration of whether the proposed structure will have a substantial adverse effect upon operation at the San Francisco International Airport. Based upon the record developed in the review, it is concluded that the aeronautical operations at the airport may continue unaltered should the proposed apartment building be constructed. Accordingly, it is the finding of the Agency that the proposed structure would have no substantial adverse effect upon aeronautical operations in the San Francisco area and that the finding of "no hazard to air navigation" issued by the Western Region is affirmed.

Therefore, pursuant to the authority delegated to me by the Administrator

(30 F.R. 9499), the Determination of No Hazard to Air Navigation issued by the Western Region on June 16, 1965, is affirmed, effective this date.

Issued in Washington, D.C., on October 7, 1965.

ARCHIE W. LEAGUE,  
Director, Air Traffic Service.

[F.R. Doc. 65-10998; Filed, Oct. 14, 1965;  
8:46 a.m.]

[OE Docket No. 65-SO-9]

### SCRIPPS-HOWARD BROADCASTING CO.

#### Petition for and Grant of Public Hearing

On August 11, 1965, the Agency's Southern Regional Office issued the following determination of hazard to air navigation (Aeronautical Study No. SO-OE-6499) at East Point, Ga:

The Federal Aviation Agency has circularized and studied the following proposal to determine the effect on the use of navigable airspace.

The Scripps-Howard Broadcasting Co. proposes a guyed multi-antenna television tower near Boca Raton, Fla., at latitude 26°24'15", longitude 80°13'10", 2,049 feet AMSL, 2,034 feet AGL.

The proposed structure would be located approximately 7 miles northwest of the Boca Raton, Fla., airport, 20 miles southwest of the West Palm Beach, Fla., VOR and 34.5 miles northeast of the Miami Beach, Fla., VORTAC. It would exceed the standards of 77.23(a)(1) of the Federal Aviation Regulations, Subpart C, by 1,534 feet since it would be more than 500 feet above ground at the site of construction. It would exceed 77.23(a)(5) by 1,500 feet as it would be located within the boundaries of VOR Federal airways No. 3 and No. 159E and Part 95 direct routes between West Palm Beach and Miami.

The aeronautical study disclosed that the structure would require an increase from 2,000 to 3,000 feet in the minimum en route altitudes on segments of VOR Federal airways No. 3 and No. 159E between the Miami VORTAC and the West Palm Beach VOR. The increases in MEA's would mean the loss of cardinal altitudes in an area of extensive volume of IFR operations.

The structure would be located in proximity to U.S. Highway No. 441 and the Sunshine State Parkway. These highways are excellent navigation aids for VFR flight. The volume of VFR operations in the area between West Palm Beach and Miami, Fla., is one of the heaviest in the nation.

The proposed structure would have a substantial adverse effect upon the safe and efficient utilization of navigable airspace. Therefore, in accordance with Federal Aviation Regulations, Part 77, it is determined that the proposed structure would be a hazard to air navigation.

This determination will become final 30 days after the date of issuance unless a petition for review is filed in accordance with Part 77.37. If the petition is denied

the determination becomes final on the date of the denial or 30 days after the issuance of the determination, whichever is later.

On September 10, 1965, the Scripps-Howard Broadcasting Co. petitioned the Administrator for a review of the above determination either by review of the record or a public hearing.

Pursuant to the authority delegated to me by the Administrator, the petition of the Scripps-Howard Broadcasting Co. for discretionary review under § 77.37 of Part 77 is granted, and such review will be on the basis of a public hearing conducted in accordance with the procedures of Subpart E of Part 77.

Under the provisions of Part 77 of the Federal Aviation Regulations, Mr. George Borsari is appointed as the Presiding Officer. The General Counsel has appointed Mr. Evans W. North as the Legal Officer. The public hearing will be convened on November 15, 1965, at 9 a.m., e.s.t. The Presiding Officer will give notice concerning the location of the hearing and any prehearing conference which may be held, as well as designate parties to the hearing.

Upon conclusion of this hearing and resolution of the questions of fact presented in this matter, an appropriate order will be published in the FEDERAL REGISTER. In accordance with § 77.37 of the Federal Aviation Regulations, the determination of hazard to air navigation issued by the Agency's Southern Regional Office in OE Docket No. 65-SO-9 is not a final determination.

Issued in Washington, D.C., on October 13, 1965.

CHARLES W. CARMODY,  
Acting Director, Air Traffic Service.

[F.R. Doc. 65-11126; Filed, Oct. 13, 1965;  
8:52 a.m.]

### FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14909; FCC 65M-1315]

#### SOUTHERN RADIO AND TELEVISION CO.

#### Statement and Order After Prehearing Conference

In re application of Southern Radio and Television Co., Lehigh Acres, Fla., Docket No. 14909, File No. BP-14297; for construction permit.

Among other things, at today's prehearing conference, hearing on the remand was scheduled for November 1, 1965.

So ordered, This 8th day of October 1965.

Released: October 11, 1965.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN P. WAPLE,  
Secretary.

[F.R. Doc. 65-11050; Filed, Oct. 14, 1965;  
8:51 a.m.]

[Docket No. 16124; FCC 65M-1323]

#### WEST CENTRAL OHIO BROADCASTERS, INC.

#### Order Continuing Hearing

In re application of West Central Ohio Broadcasters, Inc., Xenia, Ohio, Docket No. 16124, File No. BP-15468; for construction permit.

It is ordered, This 12th day of October 1965, pursuant to the joint proposal and agreement submitted by all parties to the proceeding during an informal conference of counsel held this date, that the hearing in the above-entitled proceeding, which heretofore was scheduled to commence October 20, 1965, is continued to December 8, 1965, and will be held in the Offices of the Commission, Washington, D.C.

Released: October 12, 1965.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 65-11051; Filed, Oct. 14, 1965;  
8:51 a.m.]

[Docket No. 16128; FCC 65M-1318]

#### ULTRONIC SYSTEMS CORP. AND WESTERN UNION TELEGRAPH CO.

#### Order Continuing Hearing

In the matter of Ultronic Systems Corp., complainant, vs. The Western Union Telegraph Co., defendant; Docket No. 16128.

On the Hearing Examiner's own motion: It is ordered, This 11th day of October 1965, that the prehearing conference now scheduled for October 15, 1965, is continued to October 19, 1965, commencing at 10 a.m. in the offices of the Commission at Washington, D.C.; and.

It is further ordered, That the hearing now scheduled to commence on October 18, 1965, is continued pending further order.

Released: October 11, 1965.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 65-11052; Filed, Oct. 14, 1965;  
8:51 a.m.]

[Docket No. 16194; FCC 65M-1319]

#### DARRELL E. YATES (KRBA)

#### Order Following Prehearing Conference

In re application of Darrell E. Yates (KRBA), Lufkin, Tex., Docket No. 16194, File No. BP-16514; for construction permit.

A prehearing conference having been held in this proceeding on October 7, 1965, and it appearing that certain procedural agreements reached therein should be formalized and publicized by issuance of an order;

Accordingly, it is ordered, This 8th day of October, 1965, that:

(1) The direct (affirmative) case of the applicant shall be presented in the form of sworn, written exhibits;

(2) Copies of the proposed exhibits of the applicant shall be exchanged with the other parties (and also supplied to the Hearing Examiner) by November 10, 1965;

(3) Requests for additional information desired by any of the other parties, as well as notifications regarding those of applicant's witnesses required to be present at the hearing for cross-examination, shall be submitted to counsel for the applicant by November 16, 1965;

(4) The exchange of copies of further applicant's exhibits prepared in response to any request for additional information shall be made by November 19, 1965; and

(5) The hearing heretofore scheduled to commence on November 8, 1965, is postponed to November 23, 1965, at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: October 11, 1965.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 65-11053; Filed, Oct. 14, 1965;  
8:51 a.m.]

[FCC 65-907]

### INSTRUCTIONAL TELEVISION FIXED SERVICE

#### Establishment of Committee for Full Development

OCTOBER 11, 1965.

On February 9, 1965, in Washington, D.C., the Commission held a meeting of experts from all areas of the country concerned with the Instructional Television Fixed Service (also known as the 2500 mc/s system). One of the recommendations of the meeting related to the establishment of a national committee to work for the development of the I.T.F.S. A number of educators at the meeting indicated a desire to serve on such a committee.

The growth of 2500 mc/s systems throughout the country, especially in urban areas, and the incipient shortage of channels in some areas because of uncoordinated planning suggest the need to establish national and regional groups of educators interested in the I.T.F.S. to achieve effective utilization of these channels, and to provide information both to the Commission and to education at large on the development of I.T.F.S.

Accordingly, the Commission is establishing a national committee for Full Development of Instructional Television Fixed Service. Commissioner Robert E. Lee will serve as permanent chairman of the Committee. The Committee will be

composed wholly of representatives of State and local agencies, and educational, charitable, religious, civic, social welfare, and other similar nonprofit organizations. It may invite industry representatives to attend its meetings. Membership in the national Committee will be drawn from five divisions operating under the Committee: four regional divisions encompassing the Northeast, South, Midwest and Far West, and one division representing national organizations. Committee members thus far appointed, serving as nuclei for the divisions, are:

Mr. Paul Andereck, Director, Audiovisual Project, St. Louis County Schools, Creve Coeur, Mo.

Dr. Richard Bell, Director, Institutional Division, National Association of Educational Broadcasters, Washington, D.C.

Dr. Richard Bell, Director, Instructional Di-Network, Cambridge, Mass.

Mr. Duff Browne, Director, ETV Project, Southern Regional Educational Board, Atlanta, Ga.

Dr. Bernarr Cooper, Chief, Bureau of Mass Communications, State Education Dept., Albany, N.Y.

Rev. John Culkun, Chairman, TV Committee, National Catholic Education Association, Washington, D.C.

Rev. Michael J. Dempsey, Assistant Superintendent of Schools, Diocesan School System, Brooklyn, N.Y.

Dr. Lawrence Frymire, Coordinator of TV, State of California, Sacramento, Calif.

Dr. Bart Griffith, Director of TV, University of Missouri, Columbia, Mo.

Mr. George Hall, Director, Teaching Resources Center, University of Delaware, Newark, Del.

Mr. R. A. Iseberg, Communications Engineer, University of California, Berkeley, Calif.

Mr. William J. Kessler, Consulting Engineer, Florida ETV Commission, Gainesville, Fla.

Dr. Marcus Konick, Audiovisual Director, State Department of Education, Harrisburg, Pa.

Mr. Dalton Levy, TV Project Director, Public Schools, Plainedge, Long Island, N.Y.

Dr. Robert L. Lincoln, Executive Director, Council of Higher Educational Institutions, New York, N.Y.

Rev. Manuel R. Roman, Assistant Superintendent of Schools, Parochial School System, Baltimore, Md.

Dr. Robert Schultz, Director of TV, State Office of Public Instruction, Springfield, Ill.

Dr. Ralph Steetle, Director, Department of Educational Media, Oregon State System of Higher Education, Portland, Ore.

Mr. Alan Stephenson, Director of Educational Services, WVIZ, Cleveland, Ohio.

Rev. John Urban, Director of TV, Diocesan Schools, Los Angeles, Calif.

Dr. Harold Wigren, Television Consultant, National Education Association, Washington, D.C.

Mr. William Woods, TV Coordinator, Fisk University, Nashville, Tenn.

The first meeting of the Committee is scheduled for November 4, 1965, in Washington, D.C. Any other interested persons concerned with the I.T.F.S. may attend this meeting. Details may be obtained from Ben Waple, Secretary, Federal Communications Commission, 12th and Pennsylvania Avenue NW., Washington, D.C. Membership on the National Committee and Regional Di-

visions is not yet completed and any qualified person is eligible for such membership. The November 4 meeting will be devoted to orientation, internal structure and the election of officers. Included on the agenda will be the matters of expansion of the National Committee and the regional divisions, the development of State and local groups, reports to the Commission, future meetings of the Committee, and the informational and coordinating objectives of the Committee.

Adopted: October 6, 1965.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>1</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 65-11054; Filed Oct. 14, 1965;  
8:51 a.m.]

## DEPARTMENT OF HEALTH, EDU- CATION, AND WELFARE

Office of Education

### LOCAL EDUCATIONAL AGENCIES

#### Initial Deadline Date To File Appli- cations for Supplementary Educa- tional Centers and Services Grants

November 10, 1965, is established pursuant to 45 CFR 118.12 as the date on or before which applications (in the form of project proposals) for Federal grants for Supplementary Educational Centers and Services under Title III of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. 841-848) must be filed by local educational agencies in order to be considered in the first round of grants under that Title for fiscal year 1966.

Each application should be submitted to the Division of Plans and Supplementary Centers, Office of Education, Department of Health, Education, and Welfare, Washington, D.C., 20202, and a copy must be submitted for review and recommendation to the State Educational Agency of the State in which the applicant is located on or before the date of submission to the U.S. Office of Education. Applications must be mailed in time to be received in the Office of Education and in the State Educational Agency by the deadline date. However, late applications will be accepted if accompanied by appropriate justification for the delay and if postmarked not later than the deadline date.

Application forms may be obtained from the State Educational Agency of the State in which the applicant is located.

Dated: October 10, 1965.

FRANCIS KEPPEL,  
U.S. Commissioner of Education.

[F.R. Doc. 65-11035; Filed, Oct. 14, 1965;  
8:49 a.m.]

<sup>1</sup> Commissioner Hyde absent.

## FEDERAL POWER COMMISSION

[Docket No. G-11034, etc.]

## ATLANTIC REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates and Pending Certificate Applications<sup>1</sup>

OCTOBER 6, 1965.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given; *Provided, however*, That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed here-in for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,  
Acting Secretary.

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and Date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-11034 C 9-23-65	The Atlantic Refining Co. Post Office Box 2819, Dallas, Tex., 75221.	Tennessee Gas Transmission Co., East and West Cameron Areas, Offshore Cameron Parish, La.	19.5	15,025
G-13828 E 9-3-65 <sup>1</sup>	Western Oil Fields, Inc. (Operator), et al., 1220 Denver Club Bldg., Denver, Colo., 80202.	Colorado Interstate Gas Co., Northwest Eva Field, Texas County, Okla.	15.0	14.65
G-14874 C 9-22-65	Monanto Co. (Operator), et al., 1300 Main St., Houston, Tex., 77002.	United Gas Pipe Line Co., Broussard Area, Lafayette and St. Martin Parishes, La.	22.0	15,025
G-18239 3-15-65 <sup>1</sup> 4-5-65 <sup>1</sup> 7-16-65 <sup>1</sup>	Forest Oil Corp., et al., 1300 National Bank of Commerce Bldg., San Antonio, Tex., 78205.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	19.5	14.65
G-18250 3-15-65 <sup>1</sup> 4-5-65 <sup>1</sup> 7-16-65 <sup>1</sup>	Forest Oil Corp., et al.	do	19.5	14.65
G-20182 D 9-23-65	Reuben W. Mayronne, Jr., d.b.a. Riverside Oil Co. (Operator), et al., c/o Frank J. Peragine, attorney, Deutsch, Kerrigan & Stiles, 1800 Ilerbia Bank Bldg, New Orleans, La., 70112 (partial abandonment).	Transcontinental Gas Pipe Line Corp., North Dusan Field, Lafayette Parish, La.	Depleted	
CI60-31 E 8-26-65	Sunset International Petroleum Corp. (successor to Panhandle Petroleum Limited Partnership), 8920 Wilshire Blvd., Beverly Hills, Calif.	Colorado Interstate Gas Co., Mocane Field, Beaver County, Okla.	15.0	14.65
CI60-147 E 8-26-65	Sunset International Petroleum Corp. (successor to Panhandle Petroleum Limited Partnership).	Northern Natural Gas Co., Perryton and Hansford Fields, Ochiltree County, Tex.	16.5	14.65
CI60-183 E 8-26-65	do	Northern Natural Gas Co., Perryton Field, Ochiltree County, Tex.	15.5	14.65
CI60-406 E 8-29-65	do	Northern Natural Gas Co., Guymon-Hugoton and George Morrow Fields, Beaver and Ochiltree Counties, Tex.	16.5	14.65
CI60-679 E 8-26-65	do	Northern Natural Gas Co., Hansford-Morrow Field, Ochiltree County, Tex.	16.5	14.65
CI60-696 E 8-26-65	do	Panhandle Eastern Pipe Line Co., Hansford-Morrow Field, Hansford County, Tex.	17.0	14.65
CI60-749 E 8-26-65	do	Northern Natural Gas Co., Hansford Field, Ochiltree County, Tex.	16.5	14.65
CI61-359 <sup>1</sup> E 8-26-65	do	El Paso Natural Gas Co., Clear Lake Field, Beaver County, Okla.	17.0	14.65
CI61-549 <sup>1</sup> E 8-26-65	do	El Paso Natural Gas Co., North Perryton Field, Ochiltree County, Tex.	17.0	14.65
CI61-852 E 8-26-65	do	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	17.0	14.65
CI61-1203 E 8-26-65	do	Northern Natural Gas Co., Mocane Field, Beaver and Harper Counties, Okla.	17.0	14.65
CI62-146 E 8-26-65	do	Bering Co., Horizon Cleveland Field, Ochiltree County, Tex.	12.5	14.65
CI62-585 D 3-12-65 <sup>11</sup>	Palm Petroleum Corp., (Operator), et al., 18th Floor, Vaughn Plaza, Corpus Christi, Tex.	Kansas-Nebraska Natural Gas Co., Inc., Camerick Field, Texas County, Okla.		
C 3-12-65 <sup>11</sup>		Panhandle Eastern Pipe Line Co., Camerick Field, Texas County, Okla.	16.8	14.65
CI63-20 C 9-24-65	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex., 77001.	Arkansas Louisiana Gas Co., Arkoma Area, Latimer County, Okla.	15.0	14.65
CI63-877 9-7-65 <sup>11</sup>	Sarkeys, Inc. (Operator), et al., 4400 North Lincoln Blvd., Oklahoma City, Okla.	Natural Gas Pipeline Co. of America, acreage in Dewey County, Okla.	15.0	14.65
CI63-1073 E 8-26-65	Sunset International Petroleum Corp. (successor to Panhandle Petroleum, Ltd., partnership).	Northern Natural Gas Co., Horizon (Cleveland) Field, Hansford County, Tex.	16.5	14.65
CI64-349 C 9-24-65	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex., 77001.	Colorado Interstate Gas Co., Wamsutter Field, Sweetwater County, Wyo.	15.0	14.65
CI64-1136 C 9-22-65 <sup>11</sup>	Landa Oil Co., 4300 North Central Expressway, Dallas, Tex.	United Gas Pipe Line Co., Quinto Creek Field, Jim Wells and Nueces Counties, Tex.	13.1664	14.65
CI65-109 C 9-27-65	Texaco, Inc., Post Office Box 82332, Houston, Tex., 77052.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	13.0	15,025
CI65-385 E 9-2-65 <sup>14</sup>	Western Oil Fields, Inc. (Operator), et al., 1220 Denver Club Bldg., Denver, Colo.	Cities Service Gas Co., Boggs Field, Barber County, Kans.	12.0	14.65
CI65-807 (G-6170) (G-6274) (G-3146) C 9-22-65 <sup>12</sup>	James W. Harris (Operator), et al., 236 Bldg., 236 East Capitol St., Jackson, Miss.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	20.0 15.0 14.0	15,025 15,025 15,025
CI65-992 C 9-24-65	Continental Oil Co., Post Office Box 2197, Houston, Tex., 77001.	El Paso Natural Gas Co., Various fields in Rio Arriba and San Juan Counties, N. Mex. and La Plata County, Colo.	13.0	15,025

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

See footnotes at end of table.

Docket No. and Date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base	Docket No. and Date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-228 A 9-23-65	Francis Priestrod, et al., 1104 Campus Hills Blvd., Rock-wood, Ill.	Consolidated Gas Supply Corp., Glenview District, Glenview County, W. Va.	25.0	15.325	CI66-233 A 9-27-65	William C. Vandenberg, Jr., 1191 South Washington Ave., Holland, Mich., and Robert Swanson, 149 West Kinzie, Chicago, Ill. 60610.	The East Ohio Co., Stearnap and Hickory Townships, Mercer County, Pa.	27.0	15.023
CI66-229 A 9-23-65	Quaker State Oil Refining Corp., 1222 Market St., Pottsville, Pa., et al.	United Gas Pipe Line Co., Armandville Field, St. Martin Parish, La.	25.0	15.325	CI66-254 B 9-28-65	W. B. Imbost, et al., c/o Missouri Gas Field, Union Parish, La.	Southwest Gas Producing Co., Inc., Monroe Gas Field, Union Parish, La.	(*)	-----
CI66-230 A 9-24-65	Schwartz, G. P., et al., 1939 Louisville Ave., St. Louis 1, Mo.	Landa Oil Co., Orange Grove Field, Jim Wells County, Tex.	15.0	15.025					
CI66-231 A 9-24-65	Oil and Land Co., successor to A. G. Hyden & James B. Myers, d.b.a. Hyden & Myers (Operator), et al., 800 Back Blvd., St. Joseph, Mo.	United Gas Pipe Line Co., Albrecht Field, Goliad County, Tex.	5.5	14.65					
CI66-232 D 9-24-65	Skinner Corp. (Operator), et al., D-44 Petroleum Center, San Antonio, Tex.	El Paso Natural Gas Co., Strawberry Trend Area Field, Bosque County, Tex.	Depleted						
CI66-233 A 9-24-65	Southwestern-Greer Estate No. 1 Limited, c/o D. E. Cooper, agent, 300 North Big Spring, Midland, Tex.	The Manufacturers Light and Heat Co., I. G. Logsdon Farm, Liberty District, Marshall County, W. Va.	14.5	14.65					
CI66-234 B 9-24-65	The Preston Oil Co., Post Office Box 2015, Columbus, Ohio, 43216.	The Manufacturers Light and Heat Co., J. H. Yoho Farm, Liberty District, Marshall County, W. Va.	(*)						
CI66-235 B 9-24-65	The Preston Oil Co.	Natural Gas Pipeline Co. of America, Camerick Field, Beaver County, Okla.	(*)						
CI66-236 B 9-24-65	do	Shelton Gas Corp., Lettish-Bayou White Area, Peoria County, Pa.	17.0	14.65					
CI66-237 A 9-24-65	Shell Oil Co., 80 West 34th St., New York, N. Y., 10003.	United Gas Pipe Line Co., Marble-Peet Field, Peet River County, Miss.	15.0	15.025					
CI66-238 A 9-27-65	Vernon J. Main, Jr., 1701 Pere Marquette Bldg., New Orleans, La., 70112.	Consolidated Gas Supply Corp., Rich District, Glimmer County, W. Va.	20.0	15.025					
CI66-239 A 9-27-65	Joseph F. Franz, et al., 807 Brookwood Dr., Clinton, Miss.	Consolidated Gas Supply Corp., De Rich District, Glimmer County, W. Va.	25.0	15.325					
CI66-240 A 9-27-65	L. W. Roebbe, Box 300, Spencer, W. Va.	Consolidated Gas Supply Corp., New Union District, Doddridge County, W. Va.	25.0	15.325					
CI66-241 A 9-27-65	Krom Oil & Gas Co., c/o Clarence Powell, agent, West Union, W. Va.	Arkansas Louisiana Gas Co., West Okla. District, Kay County, Okla.	12.0	14.65					
CI66-242 A 9-27-65	Robert L. Bomanek, operator, c/o N. Roberts, 67, Oklahoma City, Okla.	Consolidated Gas Supply Corp., Sherman District, Calhoun County, W. Va.	25.0	15.325					
CI66-243 A 9-27-65	Hughes W. Starnes, et al., Shampstown, W. Va.	Consolidated Gas Supply Corp., Glenville District, Glimmer County, W. Va.	25.0	15.325					
CI66-244 A 9-27-65	Delta Petroleum Co., c/o James N. Ryan, attorney in fact, 5855 Woodman Ave., Suite 109, Van Nuys, Calif.	United Fuel Gas Co., Henry District, Clay County, W. Va.	25.0	15.325					
CI66-245 A 9-27-65	Willis Kling, c/o Paul F. Stutz, agent, Box 25, Spencer, W. Va.	Cities Service Gas Co., Palmer Landon-Kanawha City Field, Barber County, Kans.	14.0	14.65					
CI66-246 A 9-28-65	J. A. Mull, Jr., c/o W. F. School, attorney, 1400 Wichita Plaza, Wichita, Kans.	Texas Eastern Transmission Corp., Aberdeen Gas Field, Monroe County, Miss.	17.0	15.025					
CI66-247 A 9-27-65	Ozek Gas Corp., 607 Cravena Bldg., Oklahoma City, Okla., 73102.	Consolidated Gas Supply Corp., Spencer District, Boone County, W. Va.	25.0	15.325					
CI66-248 A 9-28-65	J. & B. Drilling & Operating Co., et al., 3504 Market St., Spencer, W. Va.	Consolidated Gas Supply Corp., Central District, Doddridge County, W. Va.	25.0	15.325					
CI66-249 A 9-28-65	C & C Wells Ltd., 3000 27th St., Parkersburg, W. Va.	Consolidated Gas Supply Corp., Tappan District, Glimmer County, W. Va.	25.0	15.325					
CI66-250 A 9-28-65	Delton Oil Productions, et al., c/o Don W. Hardiman, agent, 601 Jefferson St., Parkersburg, W. Va.	Trunkline Gas Co., O'Brien Ranch Field, Goliad County, Tex.	25.0	14.65					
CI66-251 A 9-28-65	Union Oil Co. of California, et al., c/o Cesar, Los Angeles, Calif., 90017.		25.0	14.65					

[P.R. Doc. 65-10940; Filed Oct. 14, 1965; 8:45 a.m.]

**AMERADA PETROLEUM CORP. ET AL.**  
**Order Accepting Decreased Rate Filing**

Pipe Line Co., exercising its option to reduce the amount of Louisiana Severance Tax reimbursement due the producer under the producer's rate schedule. The decreased rate filing is set forth in appendix A hereof.

Although the Letter Agreement providing for the tax reimbursement reduction specifies an effective date of May 1, 1965, for such change, we believe it would be in the public interest to waive the 30-day notice requirements provided in section 4(d) of the Natural Gas Act and accept for filing Amerada's rate change effective as of September 1, 1965, the

proposed effective date, subject to the existing rate suspension proceeding in Docket No. RI65-553. Such effective date coincides with the date the rate suspended in the aforementioned docket became effective subject to refund. The proposed tax change does not affect the base rate which exceeds the ceiling level for increased rates in South Louisiana.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the regula-

tions thereunder to accept for filing the proposed tax reimbursement rate decrease filing, designated as Supplement No. 11 to Amerada's FPC Gas Rate Schedule No. 64, effective as of September 1, 1965, subject to the existing rate suspension proceeding in Docket No. RI65-553 and refund obligation related thereto.

The Commission orders: The tax reimbursement decrease, designated as

Supplement No. 11 to Amerada's FPC Gas Rate Schedule No. 64, is hereby accepted for filing, effective as of September 1, 1965, subject to the existing rate suspension proceeding in Docket No. RI65-553 and refund obligation related thereto.

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,  
Secretary.

## APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in Docket Nos.
									Rate in effect	Proposed decreased rate	
RI65-553...	Amerada Petroleum Corp. (Operator), et al., Post Office Box 2040, Tulsa, Okla., 74102, Attn.: Mr. W. H. Bourne.	64	11	United Gas Pipe Line Co. (South Lewisburg Field, Acadia Parish, La.) (South Louisiana).	\$2,478	9-7-65	9-1-65	-----	** 22.75	*** 22.50	RI65-553.

<sup>1</sup> Includes letter agreement dated Mar. 24, 1965, providing for reduction in tax reimbursement effective as of May 1, 1965.

<sup>2</sup> Proposed effective date. The date the rate suspended in Docket No. RI65-553 became effective, subject to refund.

<sup>3</sup> Tax reimbursement rate decrease.

<sup>4</sup> Pressure base is 15.025 p.s.i.a.

<sup>5</sup> Includes 1.50 cents per Mcf tax reimbursement.

<sup>6</sup> Includes 1.75 cents per Mcf tax reimbursement.

<sup>7</sup> Prior to Sept. 1, 1965, 20.0 cents per Mcf settlement rate was in effect although contractually due a higher rate.

[F.R. Doc. 65-11014; Filed, Oct. 14, 1965; 8:47 a.m.]

[Docket No. CP66-87]

### HAMILTON NATURAL GAS CO., INC., AND PANHANDLE EASTERN PIPE LINE CO., RESPONDENT

#### Notice of Application

OCTOBER 7, 1965.

Take notice that on September 29, 1965, Hamilton Natural Gas Co., Inc. (Applicant), 1119 North Delaware Street, Indianapolis, Ind., 46204, filed in Docket No. CP66-87 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission requiring Panhandle Eastern Pipe Line Co. (Respondent) to make a physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant its natural gas requirements for the town of Sheridan, Hamilton County, Ind., and its environs, all as more fully stated in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes the connection between a 6-inch lateral line, which Applicant will own and operate as an integral part of the distribution system, with the facilities of Respondent at a point approximately 10.5 miles southeast of Sheridan in Hamilton County.

The estimated cost of construction of the lateral and the distribution system is \$500,000, which will be financed with First Mortgage Bonds of \$325,000 and equity capital for the balance.

The estimated natural gas requirements during the first 3 years of operation are as follows:

	First year	Second year	Third year
Annual (Mcf).....	94,060	109,662	125,264
Peak day (Mcf)...	990	1,161	1,331

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 29, 1965.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 65-11015; Filed, Oct. 14, 1965; 8:47 a.m.]

[Docket No. RI65-351 etc.]

### ALVIN C. HOPE, ET AL.

#### Order Providing for Hearing on and Suspension of Proposed Changes in Rates Effective Subject to Refund; Correction

SEPTEMBER 23, 1965.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued December 4, 1964 and published in the FEDERAL REGISTER December 12, 1964 (F.R. Doc. 64-12711; F.R. Vol. 29-17052), in the chart after Docket No. RI65-351,

Alvin C. Hope (Operator), et al. change "Supp. No. 4" to read "Supp. No. 5".

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 65-11016; Filed, Oct. 14, 1965; 8:47 a.m.]

[Docket No. CP66-85]

### NATURAL GAS PIPELINE CO. OF AMERICA

#### Notice of Application

OCTOBER 8, 1965.

Take notice that on September 28, 1965, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill., 60603, filed in Docket No. CP66-85 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional daily contract quantity of 300 Mcf of gas to the city of Nebraska City, Nebr. (Nebraska City), an existing customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Nebraska City's presently effective daily contract quantity is 4,506 Mcf under Applicant's rate schedule CD-2, and 3,333 Mcf of maximum day storage withdrawal service under Applicant's rate schedule S-1. Nebraska City will also receive an additional 122 Mcf of maximum day storage withdrawal service under Applicant's

rate schedule S-1 pursuant to certificate authorization issued to Applicant on August 13, 1965, in Docket No. CP65-169.

The application states that Nebraska City has advised Applicant by letter dated September 8, 1965, that it desires and will contract for an additional daily contract quantity of 300 Mcf of natural gas. Applicant states that Nebraska City has further advised Applicant that its latest estimate of 1965-66 peak day requirements exceeds by 300 Mcf its now available 1965-66 peak day supply.

Subject to receipt of the authorization requested, Applicant has agreed to supply Nebraska City with the additional quantity of gas requested with commencement of increased deliveries authorized in Docket Nos. CP65-169 and CP65-404, issued August 13, 1965, and August 24, 1965, respectively.

Applicant proposes to sell and deliver the additional 300 Mcf per day requested by Nebraska City from Applicant's unallocated capacity of 30,171 Mcf authorized in the aforementioned Docket No. CP65-404. Applicant states that no additional facilities would be required to make the proposed delivery.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before October 29, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,  
*Secretary.*

[P.R. Doc. 65-11017; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. CP66-86]

### NORTHERN NATURAL GAS CO.

#### Notice of Application

OCTOBER 7, 1965.

Take notice that on September 20, 1965, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha 2, Nebr., filed in Docket No. CP66-86 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authoriz-

ing the reduction of the certificated contract demand volumes of gas for Coon Rapids, Iowa (Coon Rapids) from 850 Mcf to 750 Mcf per day to become effective in November, 1965, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that natural gas service to Coon Rapids commenced September 22, 1953, and through various dockets, the last of which was issued in Docket No. CP63-219 on November 14, 1963, Coon Rapids' contract demand has increased from 500 Mcf to the presently effective 850 Mcf per day. Applicant further states that Coon Rapids has constructed a peak shaving plant and has requested a 100 Mcf per day reduction pursuant to § 17.5(a) of Applicant's FPC Gas Tariff which enables utilities to reduce their contract demand when certain conditions are met. The application states that this reduction does not fall under the intent of that provision but Applicant is willing to grant the reduction since the effect is de minimis.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before October 29, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,  
*Secretary.*

[P.R. Doc. 65-11018; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. RP66-13]

### NORTHERN UTILITIES, INC.

#### Notice of Proposed Changes in Rates and Charges

OCTOBER 7, 1965.

Pursuant to § 2.59(a) of the Commission's rules of practice and procedure (18 CFR 2.59(a)), notice is hereby given that Northern Utilities, Inc., on October 1, 1965, tendered for filing a proposed revision of its FPC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1965. The proposed tariff reflects changes in rates for transporta-

tion of natural gas for the account of Kansas-Nebraska Natural Gas Co. from producing areas in Fremont and Natrona Counties, Wyo., to Casper, Wyo.

Copies of the filing have been served by Northern Utilities, upon Kansas-Nebraska and the Public Service Commission of Wyoming. Protests, petitions to intervene or notices of intervention may be filed with the Federal Power Commission, Washington, D.C., 20426, pursuant to the Commission's rules of practice and procedure on or before October 22, 1965.

JOSEPH H. GUTRIDE,  
*Secretary.*

[P.R. Doc. 65-11019; Filed, Oct. 14, 1965;  
8:48 a.m.]

### ORANGE AND ROCKLAND UTILITIES, INC.

#### Notice of Application

OCTOBER 7, 1965.

Take notice that on September 27, 1965, Orange and Rockland Utilities, Inc. (Applicant), a New York corporation, qualified to do business in the State of New Jersey with its principal business office at Nyack, N.Y., filed an application with the Federal Power Commission pursuant to section 204 of the Federal Power Act, seeking an order authorizing it to issue short-term unsecured promissory notes in the maximum principal amount of \$15,000,000 outstanding at any one time.

The securities to be issued by the Applicant consist of notes of a maturity of 1 year or less from the date of issue to commercial banks or institutions not for resale to the public, and no finder's fee or other fee, commission or remuneration is to be paid in connection therewith to any third person for negotiating the transaction. Such notes are to mature not later than 1 year from the date thereof and in any event no later than December 31, 1966. According to the Applicant, the purpose for which the securities have been or are to be issued is the construction, completion, extension, or improvement of certain electric and gas facilities. This program calls for an expenditure of \$6.3 million during the remainder of 1965 and of \$11.9 million during 1966. The main items in this program are \$3.7 million for completion of a 170 mw unit at the Lovett Steam Plant, \$1.5 million for construction of a service building at Spring Valley, N.Y., \$5.9 million for extension and replacements of electric lines and other additions and replacements of plant and property.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1965, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,  
*Secretary.*

[P.R. Doc. 65-11020; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. E-7247]

**PACIFIC POWER & LIGHT CO.****Notice of Application**

OCTOBER 7, 1965.

Take notice that on September 29, 1965, Pacific Power & Light Co. (Applicant), a Maine corporation qualified to transact business in Oregon, Wyoming, Washington, Montana, and Idaho with its principal place of business at Portland, Oreg., filed an application with the Federal Power Commission pursuant to section 204 of the Federal Power Act seeking an order authorizing it to issue and sell to its employees up to but not in excess of 250,000 shares of its authorized but unissued shares of common stock of the par value of \$3.25 per share.

Applicant proposes to issue and sell these shares of common stock pursuant to an employee stock purchase plan adopted by the Board of Directors on January 26, 1965, and approved by Applicant's stockholders on April 20, 1965. The plan provides for periodic offerings of not less than 10 and not more than 400 shares of Applicant's authorized and unissued common stock to each regular full-time employee of the company but not more than 250,000 shares in the aggregate, at a price equal to 90 percent of fair-market value on the date of offering. The new plan fixes the price at which shares shall be offered at 90 percent of fair-market value on the date an offering is commenced. The time during which subscription payments must be made will be 27 months.

Applicant states that the purposes of the plan are to encourage employees to become stockholders in the company, to

stimulate increased interest on their part in the affairs of the company, to afford them an opportunity to share in the profits and growth of the company, and to promote systematic savings by them.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1965, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 65-11021; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. RI66-35]

**SOUTHERN PETROLEUM EXPLORATION, INC.****Order Accepting Decreased Rate Filings and Terminating Proceeding**

OCTOBER 7, 1965.

Southern Petroleum Exploration, Inc. (Southern Petroleum) on September 7, 1965, tendered for filing three proposed rate decreases from 14 cents to 13 cents per Mcf for natural gas sales made to El Paso Natural Gas Co. from fields in Arriba County, N. Mex. (Permian Basin Area). The proposed notices of change, which represent decreased rates from increased rates which were suspended for 1 day by the Commission's order issued August 6, 1965, in Docket No. RI66-35, until August 10, 1965. Southern Petro-

leum has not submitted its agreement and undertaking pursuant to paragraph (C) of the Commission's aforementioned suspension order issued on August 6, 1965, and the suspended rates have not become effective subject to refund. The decreased rate filings are set forth in appendix A hereof.

Southern Petroleum's three contracts involved provide for a 1 cent per Mcf guarantee for liquid products. The proposed rate decreases from 14 cents to 13 cents per Mcf reflect waiver of the 1 cent per Mcf liquid minimum guarantee. Since the proposed reduced rates of 13 cents per Mcf are equal to the applicable area ceiling price as set forth in the Commission's Statement of General Policy No. 61-1, as amended, we believe they should be accepted for filing to be effective as of October 8, 1965, the expiration date of the statutory notice, and the suspension proceeding in Docket No. RI66-35 should be terminated.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the regulations thereunder to accept for filing the decreased rate changes listed in Appendix A hereof to become effective as of October 8, 1965, and the suspension proceeding in Docket No. RI66-35 should be terminated as hereinafter ordered.

The Commission orders: The decreased rate filings designated in appendix A hereof are accepted for filing to become effective as of October 8, 1965, and the rate suspension proceeding in Docket No. RI66-35 is terminated.

By the Commission.

[SEAL]

GORDON M. GRANT,  
Acting Secretary.

## APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed decreased rate	
RI66-35	Southern Petroleum Exploration, Inc., Box 192, Sistersville, W. Va., 26175, Attn.: Mr. John C. Wright. Southern Petroleum Exploration, Inc. do	12	*8	El Paso Natural Gas Co. (Rincon and San Juan Unit, Rio Arriba County, N. Mex.) (San Juan Basin Area).	\$1,510	9-7-65	10-8-65		*14.0	**13.0	RI66-35.
		14	*8	do	181	9-7-65	10-8-65		*14.0	**13.0	RI66-35.
		15	*2	El Paso Natural Gas Co., (Canyon Largo Unit, Rio Arriba County, N. Mex.) (San Juan Basin Area).	802	9-7-65	10-8-65		*14.0	**13.0	RI66-35.

<sup>1</sup> The stated effective date is the first day after expiration of the required statutory notice.

<sup>2</sup> Rate reduction due to waiver of 1.0 cent per Mcf minimum guarantee for liquids.

<sup>3</sup> Pressure base is 15.025 p.s.i.a.

<sup>4</sup> Includes 1.0 cent per Mcf minimum guarantee for liquids.

<sup>5</sup> Exclusive for acreage added by Supplement Nos. 3 and 6 for which the 1.0 cent per Mcf minimum guarantee for liquids has been deleted by prior filings.

<sup>6</sup> Includes unilateral waiver of 1.0 cent per Mcf minimum guarantee for liquids.

[F.R. Doc. 65-11022; Filed, Oct. 14, 1965; 8:48 a.m.]

[Docket No. G-4281, etc.]

**SUNRAY DX OIL CO., ET AL.****Findings and Order After Statutory Hearing; Correction**

SEPTEMBER 29, 1965.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, severing pro-

ceeding, canceling docket number, amending certificates, permitting and approving abandonment of service, terminating certificates, making successors correspondents, substituting respondent, redesignating proceedings, requiring filing of agreement and undertaking, accepting agreements and undertakings for filing, accepting related rate schedules and supplements for filing, issued April 7, 1965, and published in the FEDERAL

REGISTER April 16, 1965 (F.R. Doc. 65-3839; 30 F.R. 5489), in the chart after Docket No. CI64-1116, DeKalb Development Corp., change FPC Gas Rate Schedule "No. 11" to FPC Gas Rate Schedule "No. 1".

GORDON M. GRANT,  
Acting Secretary.

[F.R. Doc. 65-11023; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. CP66-90]

**TEXAS EASTERN TRANSMISSION  
CORP.**

**Notice of Application**

OCTOBER 7, 1965.

Take notice that on October 4, 1965, Texas Eastern Transmission Corp. (Applicant), Post Office Box 2521, Houston, Tex., 77001, filed in Docket No. CP66-90 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate facilities to enable Applicant to take into its pipeline system natural gas which it purchases in the general area of its system from time to time during the calendar year 1966, as the gas becomes available to it, in order to enable Applicant to maintain adequate gas reserves with which to meet the existing and future requirements of its customers.

Applicant states that it does not seek authorization by the instant application to make any new or additional sales of natural gas under the Natural Gas Act.

Total estimated cost of Applicant's proposed construction is not to exceed \$5,000,000, with no single project to exceed \$500,000, and will be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before November 5, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Fed-

eral Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,  
Secretary.

[P.R. Doc. 65-11024; Filed, Oct. 14, 1965;  
8:48 a.m.]

[Docket No. RI66-96]

**WESTMORE DRILLING CO., ET AL.**

**Order Providing for Hearing on and  
Suspension of Proposed Change in  
Rate, Effective Subject to Refund**

OCTOBER 7, 1965.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter II], and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before November 24, 1965.

By the Commission.

[SEAL] GORDON M. GRANT,  
Acting Secretary.

## APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI66-96....	Westmore Drilling Co. (Operator), et al., Chapin Bldg., Medicine Lodge, Kans.	2	14	Cities Service Gas Co. (Aetna Mississippi Gas Pool, Barber County, Kans.).	\$14,400	9-9-65	10-10-65	10-11-65	* 13.0	*** 14.0	

\* The stated effective date is the first day after expiration of the required statutory notice.

† The suspension period is limited to 1 day.

‡ Periodic rate increase.

§ Pressure base is 14.65 p.s.i.a.

¶ Subject to a downward B.T.U. adjustment.

Westmore Drilling Co. (Operator), et al. (Westmore), request that their proposed rate increase be permitted to become effective as of May 22, 1965, the date the rate of their predecessor, Champlin Oil & Refining Co. (Champlin), became effective subject to refund in Docket No. RI65-380. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4 (d) of the Natural Gas Act to permit an earlier effective date for Westmore's rate filing and such request is denied.

The leases involved were acquired by Westmore by assignments subject to Champlin's FPC Gas Rate Schedule No. 76. Westmore filed a certificate application and for temporary authority on March 10, 1965, in Docket No. CI65-918 and proposed the contractual due rate of 14 cents per Mcf. The effective rate, however, under Champlin's rate schedule when Westmore filed was 13 cents per Mcf. Champlin had filed to increase its rate to 14 cents per Mcf, which proposal was

then under suspension in Docket No. RI65-380 until May 23, 1965.

Consistent with the Commission's practice to place an assignee in the same rate status as its predecessor, Westmore was granted temporary certificate on May 11, 1965, conditioned to the 13 cents per Mcf rate in lieu of the 14 cents per Mcf proposed. Westmore was also advised that it may file a notice of change to 14 cents per Mcf under section 4 of the Natural Gas Act.

Westmore's proposed increase rate and charge exceeds the applicable area price level for increased rates in Kansas as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56), and should be suspended for only one day so as to place the assignee more closely in the same relative rate status as its assignor.

[F.R. Doc. 65-11025; Filed, Oct. 14, 1965; 8:48 a.m.]

## FEDERAL MARITIME COMMISSION GULF/MEDITERRANEAN PORTS CONFERENCE

### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. John T. Crook, Chairman,  
Gulf/Mediterranean Ports Conference,  
Suite 927, Whitney Building,  
New Orleans, La., 70130.

Agreement 134-26, between the member lines of the Gulf/Mediterranean Ports Conference, modifies the preamble to the approved agreement of that conference (134, as amended), in the trade from United States Gulf and South Atlantic ports from Brownsville, Tex., to and including all ports South of Cape Hatteras, to Spanish Mediterranean ports (from Huelva, East, including Balearic Islands), French Mediterranean Sea Ports, Monaco and Corsica—North African Ports in Morocco, Algeria and Tunisia—Sicily, Sardinia and West Coast of Italy—Egyptian (Mediterranean), Israeli, Syrian, Lebanese, Grecian, Turkish, Russian (Black Sea), Bulgarian, Roumanian, all Adriatic Sea Ports and Gulf of Taranto Ports, by the addition of North African Ports in Libya.

Dated: October 12, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 65-11041; Filed, Oct. 14, 1965; 8:50 a.m.]

## SEA-LAND SERVICE, INC., AND PORT- NICA SHIPPING CO., INC.

### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. J. Bruno, Traffic Representative, Sea-Land Service, Inc., Post Office Box 1050, Elizabeth, N.J., 07207.

Agreement 9507, between Sea-Land Service, Inc., and Portnica Shipping Company, Inc., covers the establishment of a through billing service for the movement of controlled temperature cargo from Central America, South America, the Caribbean, European, Mediterranean and Australian ports to (1) East Coast ports of the United States and ports in Puerto Rico with transshipment at the port of Balboa, Canal Zone, and/or (2) East Coast ports of the United States with transshipment at the port of San Juan, Ponce or Mayaguez, Puerto Rico, in accordance with the terms and conditions set forth in the agreement.

Dated: October 12, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 65-11042; Filed, Oct. 14, 1965; 8:50 a.m.]

## SCHAEFER & KREBS, INC., ET AL. Notice of Agreements Filed for Approval

Notice is hereby given that the following freight forwarder cooperative working agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301. Comments with reference to

an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement or request for a hearing should also be forwarded to each of the parties to the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Unless otherwise indicated, these agreements are non-exclusive, cooperative working agreements under which the parties may perform freight forwarding services for each other. Forwarding and service fees are to be agreed upon for each transaction. Ocean freight compensation is to be divided as agreed between the parties.

Schaefer & Krebs, Inc., New York, N.Y., and United Forwarders Service, Miami, Fla.----- FF-2674  
S. Jackson & Son, McCandles, Inc., New Orleans, La., and Colonial Shipping Co., Inc., New York, N.Y.----- FF-2675  
S. Jackson & Sons, McCandles, Inc., New Orleans, La., and Norton & Ellis, Inc., Norfolk, Va.----- FF-2676  
Cosmos Shipping Co., Inc., New York, N.Y., and Cavalier Shipping Co., Inc., Norfolk, Va.----- FF-2677  
Trans-World Shipping Corp., New York, N.Y., and Southern Shipping Co., Jacksonville, Fla.----- FF-2678  
Wedemann & Godknecht, Inc., New York, N.Y., and C. J. Tower & Sons of Buffalo, Inc., Buffalo, N.Y.----- FF-2679  
Samuel Shapiro & Co., Inc., Baltimore, Md., and Walter Plunkett Co., San Francisco, Calif.----- FF-2680  
John S. James, Savannah, Ga., and F. V. Marotta, Inc., New York, N.Y.----- FF-2681  
William H. Masson, Inc., Baltimore, Md., and Atlantic Forwarding Co., Inc., New York, N.Y.----- FF-2682  
Unsworth & Co., Inc., New York, N.Y., and George W. Wise, Jr., Savannah, Ga.----- FF-2683  
Royal Shipping Co., Long Island City, N.Y., and W. R. Zanes & Co., Houston, Tex.----- FF-2687  
Schaefer & Krebs, Inc., New York, N.Y., and Seaway Forwarding Co., Cleveland, Ohio.----- FF-2688  
Davidson Forwarding Co., Inc., Washington, D.C., and Charleston Overseas Forwarders, Inc., Charleston, S.C.----- FF-2689

Agreement FF-2684 between Darrell J. Sekin & Co., Dallas, Tex., and J. Cortina, Tampa, Fla., is a cooperative working arrangement whereunder the fee for forwarders services rendered by either party shall be agreed upon by the parties upon the basis of the services performed on each shipment. Compensation received from ocean carriers shall be divided by the parties in the following manner: 50 percent to Darrell J. Sekin & Co. and 50 percent to J. Cortina.

C. S. Greene & Co., Inc., Chicago, Ill., is party to the following agreements, the terms of which are identical. The other parties are:

Casdel International Co., San Francisco, Calif.----- FF-2685  
Gallie Corp., New York, N.Y.----- FF-2686

Forwarding and service fees are \$3.50 for passing of export declaration only.

Special services remain subject to negotiation and agreement on each transaction. Ocean freight compensation to be retained by the originating forwarder.

Agreement FF-2571 between C. S. Greene & Co., Inc., Chicago, Ill., and Silvey Shipping Co., Inc., New York, N.Y., is a cooperative working arrangement whereunder forwarding and service fees are \$3.50 for passing export declarations. Checking delivery, completing and passing export declaration, lodging steamship line's manifest bills of lading, and confirming booking commitment \$7.50. Special services remain subject to negotiation and agreement on each transaction. Ocean freight compensation is to be retained by the originating forwarder.

Agreement FF-2690 between Garcia & Fabregas, Inc., New York, N.Y., and Bevon International, Inc., Charleston, S.C., is a cooperative working arrangement whereunder the sum of \$5.00 will be paid as a handling fee for each shipment. Brokerage will be retained in all by the original forwarder.

Agreement FF-2691 between Sunshine Forwarders, Inc., Jacksonville, Fla., and G. Karmel Forwarding, Inc., New York, N.Y., is a cooperative working arrangement whereunder forwarding and service are to be as follows:

Bermuda and Nassau.....	\$2.50
All other countries:	
To pass completed export declaration.....	1.25
To pass completed bills of lading.....	1.25
To prepare or complete and pass export declarations.....	2.50
To prepare or complete and pass bills of lading.....	2.50
Preparation of Consul documents.....	5.00
Consular documents (at cost).	
Telephone calls, teletypes or telegrams (at cost).	
Ocean freight brokerage is to be divided equally on a 50-50 basis between both parties. This division of brokerage will be restricted to those shipments handled on behalf of each other.	

Dated: October 12, 1965.

THOMAS LIST,  
Secretary.

[F.R. Doc. 65-11043; Filed, Oct. 14, 1965;  
8:50 a.m.]

**SOCIEDADE GERAL DE COMERCIO INDUSTRIA E TRANSPORTES AND LYKES BROS. STEAMSHIP CO., INC.**

**Notice of Agreement Filed for Approval**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with

reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. L. Gusman, Assistant Vice President—  
Traffic, Lykes Bros. Steamship Co., Inc.,  
821 Gravier Street, New Orleans, La.

Agreement 9506 covers a through billing arrangement for the transportation of general cargo under through bills of lading from loading ports of the originating carrier, Sociedade Geral De Comercio Industria E Transportes, in North Spain and Portugal to United States Gulf ports of call of the delivering carrier, Lykes Bros. Steamship Co., Inc., with transshipment at Antwerp and/or Rotterdam. Provision is made for apportionment of the through rates and transshipment expenses in accordance with the terms and conditions stated therein.

Dated: October 12, 1965.

By order of the Federal Maritime Commission.

THOMAS LIST,  
Secretary.

[F.R. Doc. 65-11044; Filed, Oct. 14, 1965;  
8:50 a.m.]

**WILHELMSSEN LINE AND SWEDISH AMERICAN LINE**

**Notice of Agreement Filed for Approval**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. C. Menge, Traffic Manager,  
Strachan Shipping Co.,  
Ship Agents & Stevedores,  
1600 American Bank Building,  
New Orleans, La.

Agreement 8685-1, between Wilhelmsen Line and Swedish American Line, modifies Agreement 8685 which covers a sailing and pooling agreement between the parties in the trades between Scandinavian, Baltic, Continental, Cuban, and Mexican East Coast Ports and U.S. Gulf and South Atlantic ports by (1) including United Kingdom ports in the scope of the agreement, (2) permitting the parties thereto to confer and agree on rates, charges, rules and regulations to be adopted by them in the trades covered by Agreement 8685-1 to the extent that such matters are not already prescribed by any conference to which the parties belong and which covers the same or any part of the trades included within this agreement, (3) providing for the arbitration of all disputes arising out of or in connection with this agreement, and, (4) provides for the cancellation of approved Agreements 8320 and 8920 and the withdrawal of pending Agreement 9338 upon the approval of Agreement 8685-1.

Dated: October 12, 1965.

By order of the Federal Maritime Commission.

THOMAS LIST,  
Secretary.

[F.R. Doc. 65-11045; Filed, Oct. 14, 1965;  
8:50 a.m.]

**UNITED ARAB CO. FOR MARITIME TRANSPORT (MARTRANS) AND NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE**

**Notice of Agreement Filed for Approval**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to the Shipping Act, 1916, as amended.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect the agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed by:

Mr. Burton H. White,  
Burlington, Underwood, Barron, Wright &  
White,  
26 Broadway,  
New York, N.Y., 10004.

The agreement entitled "Requirements Contract", covers an arrangement under which "all cargoes of whatsoever kind and nature, moving by sea from United States ports in the Hampton Roads, Va./Eastport, Maine, range to ports in the United Arab Republic

be \* \* \* shall be shipped on vessels of the Conference \* \* \*." The rates to be charged will be generally lower than the Conference's contract rates.

Dated: October 12, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 65-11046; Filed, Oct. 14, 1965;  
8:50 a.m.]

## HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

### NATIONAL VOLUNTARY MORTGAGE CREDIT EXTENSION COMMITTEE

#### Revocation of Organization Description

The organization description of the National Voluntary Mortgage Credit Extension Committee published at 29 F.R. 3409, March 14, 1964, as amended at 29 F.R. 4111, March 28, 1964, is hereby revoked, pursuant to the termination provision under section 610(a) of the Housing Act of 1954, as amended (12 U.S.C. 1750j).

Effective as of the 2d day of October 1965.

[SEAL] ROBERT C. WEAVER,  
Housing and Home  
Finance Administrator.

[F.R. Doc. 65-11036; Filed, Oct. 14, 1965;  
8:49 a.m.]

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### CERTIFICATES AUTHORIZING EM- PLOYMENT OF FULL-TIME STU- DENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPE- CIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 579 (28 F.R. 11524), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are indicated as below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the statutory minimum of \$1.25 an hour.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing

for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below \$1 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is less, in occupations of the same general classes in which the establishment employed full-time students at wages below \$1 an hour in the base period.

Buehler Markets, food store; 621 Cumberland Street, Lebanon, Pa.; 9-22-65 to 9-21-66.  
Buy Rite, Inc., food store; 308 South Silver, Paola, Kans.; 9-14-65 to 9-2-66.

Cash & Carry Superette, Inc., food store; Main Street, Sparta, N.C.; 9-22-65 to 9-21-66.

W. T. Grant Co., variety stores; 201 South Adams Street, Peoria, Ill. (9-29-65 to 9-28-66); 6517 Airline Highway, Metairie, La. (9-20-65 to 9-19-66); 925 South Saginaw Road, Midland, Mich. (9-24-65 to 9-23-66); 418 Market Street, Steubenville, Ohio (9-24-65 to 9-23-66); 25th Street Shopping Center, Easton, Pa. (9-28-65 to 9-27-66); 120 Norwin Shopping Center, Irwin, Pa. (9-24-65 to 9-23-66); No. 1, Souderton, Pa. (9-22-65 to 9-21-66); No. 761, El Paso, Tex. (9-27-65 to 9-26-66).

Hillcrest Food Center, food store; Ninth and Iowa, Lawrence, Kans.; 9-21-65 to 9-2-66.

S. S. Kresge Co., variety stores; No. 700, Atlanta, Ga. (9-21-65 to 9-20-66); No. 6, Bay City, Mich. (10-22-65 to 10-21-66); No. 461, St. Louis, Mo. (9-3-65 to 9-2-66); No. 601, St. Louis, Mo. (9-3-65 to 9-2-66); No. 96, Springfield, Mo. (9-3-65 to 9-2-66); No. 11, Webster Groves, Mo. (9-3-65 to 9-2-66); No. 109, Lincoln, Nebr. (9-3-65 to 9-2-66); No. 326, Omaha, Nebr. (9-3-65 to 9-2-66); No. 401, Omaha, Nebr. (9-3-65 to 9-2-66); No. 671, Rapid City, S. Dak. (9-3-65 to 9-2-66); 2910 East 49th Street, Chattanooga, Tenn. (9-20-65 to 8-31-66).

S. H. Kress & Co., variety store; 100 East Seventh, Okmulgee, Okla.; 12-1-65 to 11-30-66.

McCrory-McLellan-Green Stores, variety stores; No. 574, Tucson, Ariz. (9-24-65 to 9-23-66); No. 664, Lynn, Mass. (9-27-65 to 9-26-66); No. 313, Natchez, Miss. (10-4-65 to 10-3-66); No. 161, Chester, S.C. (9-18-65 to 9-17-66).

J. J. Newberry Co., variety stores; 112 Main Avenue South, Twin Falls, Idaho (9-23-65 to 9-2-66); Woodmar Shopping Center, Hammond, Ind. (9-28-65 to 9-27-66); No. 237, Winchester, Ky. (9-20-65 to 8-31-66); No. 794, Moorhead, Minn. (9-30-65 to 9-29-66); 808 Broadway, Columbia, Mo. (9-13-65 to 9-12-66); No. 27, Coatesville, Pa. (9-22-65 to 9-21-66); 5 East Main Street, Ephrata, Pa. (9-22-65 to 9-21-66); Main & Poplar Street, Towanda, Pa. (9-22-65 to 9-21-66).

Norby's of Grand Forks, Inc., department store; 402 DeMers Avenue, Grand Forks, N. Dak.; 9-3-65 to 9-2-66.

Olsen Supermarket, food stores; 1406 West Main Street, Chanute, Kans. (9-3-65 to 9-2-66); Main Street, Erie, Kans. (9-3-65 to 9-2-66); 3209 Main Street, Parsons, Kans. (9-3-65 to 9-2-66).

Piggly Wiggly, food store; 501 West Main Street, Hartselle, Ala.; 9-27-65 to 9-26-66.

Ramey Super Market, food stores; No. 1, Springfield, Mo. (9-3-65 to 9-2-66); No. 2, Springfield, Mo. (9-3-65 to 9-2-66).

Riverside Red X Co., food store; Kansas City, Mo.; 9-3-65 to 9-2-66.

Rose's Stores, Inc., variety store; No. 144, Richmond, Va.; 9-3-65 to 8-31-66.

Rusty's Food Center, food store; 23d and Louisiana, Lawrence, Kans.; 9-21-65 to 9-2-66.

T. G. & Y. Stores Co., variety stores; No. 148, Kansas City, Kans. (9-3-65 to 9-2-66); No. 143, Mission, Kans. (9-3-65 to 9-2-66);

No. 129, Kansas City, Mo. (9-3-65 to 9-2-66); No. 156, Kansas City, Mo. (9-3-65 to 9-2-66); No. 39, Oklahoma City, Okla. (10-4-65 to 10-3-66); No. 227, Port Arthur, Tex. (9-29-65 to 9-28-66).

The following certificates were issued to establishments coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR Part 519. The certificates permit the employment of full-time students at rates of not less than 85 percent of the minimum applicable under section 6 of the act in the classes of occupations listed, and provide for limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

W. T. Grant Co., variety stores for the occupations of sales clerks, stock clerks, office clerks, and cashier, except as otherwise indicated: No. 802, Rolling Meadows, Ill. (between 2.3 percent and 10 percent, 9-28-65 to 9-28-66); Heston Avenue at Delsea Drive, Glassboro, N.J. (sales clerks, stock clerks, and office clerks, between 2.3 percent and 8.4 percent, 10-1-65 to 9-30-66); No. 729, Kingsport, Tenn. (between 2.8 percent and 10 percent, 9-25-65 to 8-31-66).

S. S. Kresge Co., variety stores for the occupation of sales clerks; No. 765, Birmingham, Ala. (between 3.0 percent and 10 percent, 10-4-65 to 10-3-66); No. 4046, Hot Springs, Ark. (between 3.3 percent and 10 percent, 9-3-65 to 9-2-66); No. 235, Louisville, Ky. (between 1.8 percent and 10 percent, 9-19-65 to 8-31-66); No. 4091, Bay City, Mich. (10 percent for each month, 10-1-65 to 9-30-66); No. 4576, Sioux Falls, S. Dak. (between 3.8 percent and 10 percent, 9-3-65 to 9-2-66); No. 758, Alcoa, Tenn. (between 2.1 percent and 10 percent, 9-24-65 to 9-23-66); No. 773, Brownsville, Tex. (between 2.4 percent and 7.1 percent, 9-24-65 to 9-23-66); No. 705, Houston, Tex. (between 3.1 percent and 10 percent, 9-27-65 to 9-26-66); No. 715, Houston, Tex. (between 3.1 percent and 10 percent, 9-27-65 to 9-26-66); No. 743, Pasadena, Tex. (between 5.8 percent and 10 percent, 9-27-65 to 9-26-66); No. 4029, San Angelo, Tex. (between 7.2 percent and 10 percent, 10-1-65 to 9-30-66); No. 4084, Lynchburg, Va. (between 2.7 percent and 10 percent, 11-17-65 to 11-16-66).

McCrory-McLellan-Green Stores, variety stores for the occupations of sales clerks, stock clerks, and office clerks, except as otherwise indicated; 3107 East Indian School Road, Phoenix, Ariz. (between 5.0 percent and 10 percent, 10-22-65 to 10-21-66); No. 366, Pensacola, Fla. (sales clerks and stock clerks, between 2.0 percent and 10 percent, 9-27-65 to 9-26-66).

Piggly Wiggly, food stores for the occupations of sackers, carryout boys, bottle boys, and janitors, except as otherwise indicated: No. 11, Phenix City, Ala. (10 percent for each month, 10-1-65 to 9-30-66); Jackson Highway, Milan, Tenn. (stock clerks, janitors, and carryout boys, 10 percent for each month, 9-24-65 to 9-23-66).

Rusty's North Side IGA, food store; 620 North Second Street, Lawrence, Kans.; sacker and carryout boys; between 7.2 percent and 10 percent; 9-21-65 to 9-2-66.

Seifferts Iowa City, Inc., apparel store; 10-12 South Clinton, Iowa City, Iowa; buying, merchandising, advertising, and sales clerks; 5.0 percent for each month; 9-3-65 to 9-2-66.

Whittaker, food store; No. 3, Bethany, Okla.; sack boys and carryout boys; between 3.5 percent and 4.5 percent; 11-8-65 to 11-5-66.

The following certificates were issued to establishments under paragraph (k) of § 519.6 of 29 CFR Part 519. These certificates supplement certificates issued pursuant to other paragraphs of that section, but do not authorize the employment of full-time students at rates below the applicable statutory minimum in additional occupations. The certificates contain limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees. The additional allowances apply to the specified months and vary from month to month between the minimum and maximum figures indicated.

Ramey Super Market, food store; No. 3, Springfield, Mo.; between 1.0 percent and 4.5 percent for the months of September through August; 9-24-65 to 9-2-66.

Wade's Super Market, food stores; 305 Roanoke Street, Christiansburg, Va. (between 0.9 percent and 7.4 percent for the months of September through November, June through August, 9-24-65 to 9-2-66); Dublin, Va. (between 0.9 percent and 7.3 percent for the months of September through November, June through August, 9-24-65 to 9-2-66).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 8th day of October 1965.

ROBERT G. GRONERWALD,  
Authorized Representative  
of the Administrator.

[F.R. Doc. 65-11031; Filed, Oct. 14, 1965;  
8:49 a.m.]

### CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order 579 (28 F.R. 11524) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal prod-

uct manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

The Arrow Co., 2022 Murphy Avenue SW., Atlanta, Ga.; effective 10-1-65 to 9-30-66 (men's shirts).

Blue Bell, Inc., Arab, Ala.; effective 10-17-65 to 10-16-66 (men's, boys', ladies' and girls' cotton denim wranglers).

Blue Gem Manufacturing Co., 1301 Carolina Street, Greensboro, N.C.; effective 10-1-65 to 9-30-66 (men's and boys' denim overalls, ladies', misses' and girls' slacks and shorts).

Bruce Co., Inc., 120 East 15th Street, Ottawa, Kans.; effective 9-23-65 to 9-27-66 (men's work clothing).

The Enro Shirt Co., Inc., 1008 West Sample Street, South Bend, Ind.; effective 9-23-65 to 9-22-66 (men's pajamas).

Griffin Garment Co., 123 Experiment Street, Griffin, Ga.; effective 9-27-65 to 9-26-66 (ladies' brassieres and girdles).

Higginsville Garment Co., Inc., Higginsville, Mo.; effective 10-1-65 to 9-30-66 (ladies' uniforms).

Jeansco, Inc., Canal and High Streets, Petersburg, Va.; effective 9-24-65 to 9-23-66 (boys' denim jeans).

H. R. Kaminsky & Sons, Inc., North Dixie Highway, Fitzgerald, Ga.; effective 9-27-65 to 9-26-66 (men's and boys' dress slacks).

Logan Manufacturing Co., Johnson & Spring Streets, Russellville, Ky.; effective 9-24-65 to 9-23-66 (work pants).

Miller Manufacturing Co., Inc., Division of Work Wear Corp., 928 Virginia Street, Joplin, Mo.; effective 9-27-65 to 9-26-66 (shirts, trousers).

Phillips-Van Heusen Corp., Hartford, Ala.; effective 10-1-65 to 9-30-66 (men's dress shirts).

Phillips-Van Heusen Corp., Ozark, Ala.; effective 10-1-65 to 9-30-66 (pajamas).

The Shirtmaster Co., Inc., 206 Barnette Street, Abbeville, S.C.; effective 10-3-65 to 10-2-66 (men's sport shirts).

Henry I. Siegel Co., Inc., Fulton, Ky.; effective 9-24-65 to 9-23-66 (men's and boys' pants).

Henry I. Siegel Co., Inc., Verona, Miss.; effective 9-24-65 to 9-23-66 (men's and boys' sport shirts).

Southern Foundations, A Division of Kellwood Co., Alamo, Tenn.; effective 10-9-65 to 10-8-66 (women's foundation garments).

Stapleton Garment Co., Stapleton, Ga.; effective 9-23-65 to 9-22-66 (men's and boys' cotton trousers).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Aalfs Manufacturing Co., Sheldon, Iowa; effective 10-1-65 to 9-30-66; 10 learners (boys' jeans).

Donovan Uniform Co., 171 Parkhouse Street, Dallas, Tex.; effective 9-23-65 to 9-22-66; 10 learners (men's uniforms).

Edmonton Manufacturing Co., Greensburg Division, Greensburg, Ky.; effective

9-23-65 to 9-22-66; 10 learners (men's work shirts).

Gross Galesburg Co., 153-162 East Ferris Street, Galesburg, Ill.; effective 10-1-65 to 9-30-66; 5 learners (men's and boys' overalls, dungarees and coveralls).

Little Procks, Inc., 545 West Main Street, Little Falls, N.Y.; effective 9-23-65 to 9-22-66; 10 learners (misses' and juniors' dresses).

Susan Garment, Inc., Bethel, Pa.; effective 9-23-65 to 9-22-66; 10 learners (ladies' blouses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Eudora Garment Corp., Eudora, Ark.; effective 9-23-65 to 9-22-66; 50 learners (washable service apparel).

Kenly Manufacturing Co., Inc., Kenly, N.C.; effective 9-27-65 to 9-26-66; 20 learners (women's dresses).

Nelson Manufacturing Co., Inc., Lovington, Va.; effective 9-22-65 to 9-21-66; 30 learners (children's playwear).

Henry I. Siegel Co., Inc., Eloy, Ariz.; effective 9-30-65 to 9-29-66; 60 learners (men's and boys' pants).

Henry I. Siegel Co., Inc., Verona, Miss.; effective 9-24-65 to 9-23-66; 20 learners (men's and boys' sport shirts).

Wallace Sewing Co., Inc., Wallace, N.C.; effective 9-27-65 to 9-26-66; 25 learners (children's outerwear garments).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.80 to 522.85, as amended).

Bayuk Cigars, Inc., Morgan Street, Selma, Ala.; effective 9-29-65 to 9-28-66; 10 percent of the total number of factory production workers for normal labor turnover purposes.

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Burlington Industries, Inc., Harriman, Tenn.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Clausener Hosiery Co., division of Joseph Bancroft & Sons Co., 25th and Adams Streets, Paducah, Ky.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Commonwealth Hosiery Mills, Inc., Ellerbe, N.C.; effective 10-3-65 to 10-2-66; 5 learners for normal labor turnover purposes (seamless).

Commonwealth Hosiery Mills, Inc., Randleman, N.C.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Great American Knitting Mills, Inc., Bechtelsville, Bally & Norristown, Pa.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Kosciusko Hosiery Mills, division of Wayne Knitting Mills, Kosciusko, Miss.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Morganton Hosiery Mills, Inc., Morganton, N.C.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Newland Knitting Mills, Newland, N.C.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production

workers for normal labor turnover purposes (seamless).

Walnut Cove Hosiery Mills, Walnut Cove, N.C.; effective 10-3-65 to 10-2-66; 5 learners for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Benham Underwear Mills, Inc., Scottsboro, Ala.; effective 10-1-65 to 9-30-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' woven underwear).

Dothan Manufacturing Co., Dothan, Ala.; effective 9-30-65 to 9-29-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's shorts and pajamas).

East Tennessee Undergarment Co., Inc., New Johnson City Highway, Elizabethton, Tenn.; effective 9-21-65 to 9-20-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' undergarments).

Standard Romper Co., Inc., Building No. 7, 200 Conant Street, Pawtucket, R.I.; effective 9-23-65 to 9-22-66; 5 percent of the total number of factory production workers for normal labor turnover purposes (children's knit shirts).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 1st day of October 1965.

ROBERT G. GRONEWALD,  
Authorized Representative  
of the Administrator.

[F.R. Doc. 65-11032; Filed, Oct. 14, 1965;  
8:49 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 12, 1965.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 40059—Chlorine from McIntosh, Ala. Filed by Southwestern Freight Bureau, agent (No. B-8765), for inter-

ested rail carriers. Rates on chlorine, in tank carloads, from McIntosh, Ala., to Jay and Plaquemine, La.

Grounds for relief—Market competition.

Tariff—Supplement 100 to Southwestern Freight Bureau, agent, tariff ICC 4469.

FSA No. 40060—Chlorine to Naheola, Ala. Filed by Southwestern Freight Bureau, agent (No. B-8761), for interested rail carriers. Rates on chlorine, in tank carloads, also multiple shipments of three or more tank carloads, from specified points in Louisiana and Texas, also Baldwin, Ark., to Naheola, Ala.

Grounds for relief—Market competition.

Tariffs—Supplements 92, 202, and 92 to Southwestern Freight Bureau, agent, tariffs ICC 4529, 4450, and 4534, respectively.

FSA No. 40061—Iron or steel scrap from Nashville, Tenn. Filed by O. W. South, Jr., agent (No. A4775), for interested rail carriers. Rates on iron or steel scrap or pieces, not copper clad, in carloads, from Nashville, Tenn., to Ashland, Ky., and Huntington, W. Va.

Grounds for relief—Barge competition.

Tariff—Supplement 43 to Southern Freight Association, agent, tariff ICC S-338.

FSA No. 40062—Soda ash from Baton Rouge and North Baton Rouge, La. Filed by O. W. South, Jr., agent (No. A4776), for interested rail carriers. Rates on soda ash, in bulk in covered hopper cars, in carloads, from Baton Rouge and North Baton Rouge, La., to Alton, East St. Louis, Federal, Hartford, Roxana, and Wood River, Ill., also St. Louis, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 87 to Southern Freight Association, agent, tariff ICC S-272.

FSA No. 40063—Substituted service—PRR for Daily Express, Inc. Filed by Daily Express, Inc. (No. 1), for itself, and on behalf of the Pennsylvania Railroad Co. Rates on property loaded in trailers and transported on railroad flatcars, between Chicago, Ill., Fort Wayne, Ind., Louisville, Ky., and Cleveland, Ohio, on the one hand, and Buffalo, N.Y., Harrisburg and Pittsburgh, Pa., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Ground for relief—Motor-truck competition.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 65-11037; Filed, Oct. 14, 1965;  
8:49 a.m.]

[Notice 66]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 12, 1965.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate

Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 1124 (Sub-No. 208 TA), filed October 8, 1965. Applicant: HERRIN TRANSPORTATION COMPANY, 2301 McKinney Avenue, Post Office Box 1440, Houston, Tex., 77001. Applicant's representative: Mr. O. P. Peck (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except commodities in bulk, and household goods as defined by the Commission), from Memphis, Tenn., to Baton Rouge, La., and return, over U.S. Highway 61, joining with presently existing routes at these points, via U.S. Highway 61 serving the intermediate points in Louisiana of Zee, St. Francisville, and Port Hudson, for 180 days. Supporting shippers: There are approximately 100 supporting statements attached to the application, which may be examined here at the Commission in Washington, D.C. Send protests to: John C. Redus, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex., 77061.

No. MC 11220 (Sub-No. 96 TA), filed October 7, 1965. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, Tenn. Applicant's representative: W. F. Goodwin (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant-site of International Paper Co., Southern Kraft Division, approximately 4 miles east of Redwood, Miss., as an off-route point in connection with applicant's presently authorized regular route operations in MC 11220, Subs 4 and 91, for 180 days. Supporting shipper: International Paper Co., Post Office Drawer A, Mobile, Ala., 36601 (Mr. E. T. Ellis, Jr., vice-president, for R. T. Harris). Send protests to: William W. Garland, District

Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 390 Federal Office Building, 167 North Main, Memphis, Tenn., 38103.

No. MC 41404 (Sub-No. 64 TA), filed October 7, 1965. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 151, Fulton Highway, Martin, Tenn., 38237. Applicant's representative: Tom D. Copeland (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Humboldt, Tenn., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, for 150 days. Supporting shipper: Consolidated Foods Corp., 135 South La Salle Street, Chicago, Ill., 60603. Send protests to: William W. Garland, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 390 Federal Building, 167 North Main Street, Memphis, Tenn., 38103.

No. MC 72442 (Sub-No. 16 TA), filed October 7, 1965. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, New Hope Road, Gastonia, N.C. Applicant's representative: Alan E. Serby, Suite 1600 First Federal Building, Atlanta, Ga., 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), (a) between Columbus, Ga., on the one hand, and, on the other, the plantsite of Georgia Kraft Co., doing business as Alabama Kraft Co., Mead Corp., and Inland Container Corp., located at or near Cottonton, Ala., now known as Mahrt, Ala., and (b) serving the plantsites of Georgia Kraft Co., doing business as Alabama Kraft Co., Mead Corp., and Inland Container Corp. at or near Cottonton, Ala., now known as Mahrt, Ala., as off-route points in connection with the carrier's otherwise authorized operations, for 150 days. Supporting shippers: The Mead Corp., Talbot Tower, Dayton, Ohio, 45402; Inland Container Corp., Indianapolis, Ind.; and The Rust Engineering Corp., 2316 Fourth Avenue, North, Birmingham, Ala. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 206-327 North Tryon Street, Charlotte, N.C., 28202.

No. MC 108380 (Sub-No. 71 TA), filed October 7, 1965. Applicant: JOHNSTON'S FUEL LINERS, INC., Post Office Box 112, Newcastle, Wyo. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo., 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar compounds*, in bulk, in tank vehicles, from Pueblo, Colo., to Edge-

mont, S. Dak., for 150 days. Supporting shipper: American Colloid Co., Box 125C, Route 2, Scottsbluff, Nebr., 69361. Send protests to: Paul A. Naughton, 2022 Federal Building, Denver, Colo., 80202.

No. MC 114533 (Sub-No. 106 TA), filed October 8, 1965. Applicant: B. D. C. CORPORATION, 4970 South Archer Avenue, Chicago, Ill., 60632. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Data processing papers, magnetic encoded documents, printed reports, documents and office records*, between Idaho Falls, Idaho and Salt Lake City, Utah, for 150 days. Supporting shipper: Utah Idaho Sugar Co., Post Office Box 2010, Salt Lake City 10, Utah. Send protests to: C. J. Kudelka, Post Office Box 2010, Salt Lake City 10, Utah.

No. MC 117561 (Sub-No. 8 TA), filed October 7, 1965. Applicant: NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, N.Y. Applicant's representative: J. Fred Relyea (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, in shipper-owned trailers, from Framingham, Mass., to East Windsor and New Haven, Conn., Dover, Keene, Manchester, and West Lebanon, N.H., Providence, R.I., and Portland, Maine, and *empty trailers with dollies and pallets*, on return, for 180 days. Supporting shipper: Sealtest Foods, 490 Old Connecticut Path, Framingham, Mass. Send protests to: Wil-mot E. James, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 518 Federal Building, Albany, N.Y., 12207.

No. MC 117883 (Sub-No. 65 TA), filed October 8, 1965. Applicant: SUBLER TRANSFER, INC., Box 62, East Main Street, Versailles, Ohio, 45380. Applicant's representative: Kenneth Subler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products*, other than frozen, with or without other ingredients, cooked, diced, flaked, powdered, shredded, or sliced, from the plantsite and warehouse facilities of Ore-Ida Foods, Inc., located in Montcalm Township, Montcalm County, Mich., near Greenville, Mich., to points in Connecticut, Illinois, Indiana, Kentucky, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, for 180 days. Supporting shipper: Ore-Ida Foods, Inc., Post Office Box 60, Ontario, Ore., 97914. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio, 45202.

No. MC 123684 (Sub-No. 6 TA), filed October 7, 1965. Applicant: THE H. R. LINE, INC., Box 447, Arcadia, Ind. Ap-

plicant's representative: James D. Collins, 802 Board of Trade Building, 143 North Meridian Street, Indianapolis, Ind., 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, (1) from the plantsite of Harris Pine Mills, Inc., at or near Valdosta, Ga., to points in Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and (2) between the plantsites of Harris Pine Mills, Inc., located at or near Cicero, Ind.; Cleburne, Tex.; Columbus, Wis.; Geneva, Ill.; Hamburg, Pa.; Tranquility, N.J. and Valdosta, Ga. for 180 days. Supporting shipper: Harris Pine Mills, Inc., Pendleton, Ore. Send protests to: R. M. Hagarty, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 802 Century Building, 36 South Penn. Street, Indianapolis, Ind., 46204.

No. MC 127612 (Sub-No. 1 TA), filed October 8, 1965. Applicant: DAWN TRUCKING CORP., 4306 First Avenue, Brooklyn, N.Y., 12232. Applicant's representative: Brodsky, Linett, & Altman, 1776 Broadway, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt, in bulk*, (a) between points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Orange, Sullivan, Ulster, and Rockland Counties, N.Y., and New York, N.Y., Fairland, New Haven, Hartford, and Litchfield Counties, Conn., and Philadelphia, Delaware, Montgomery, and Bucks County, Pa., and (b) from points in the aforesaid area to points in New Jersey, in and north of Burlington, Camden, and Ocean Counties, N.J., for 180 days. Supporting shipper: International Salt Co., Clark Summit, Pa. Send protests to: Robert Johnston, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y., 10013.

No. MC 127621 TA, filed October 7, 1965. Applicant: DONALD E. SNYDER, 1804 Schiller Street, Muscatine, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines, Iowa, 50316. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in dump vehicles, from Muscatine, Iowa, to points in Illinois, Indiana, and Missouri, for 180 days. Supporting shipper: Northern Gravel Co., Muscatine, Iowa. Send protests to: Chas. C. Biggers, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 235 U.S. Post Office Building, Davenport, Iowa, 52801.

By the Commission.

[SEAL]

H. NEIL GARSON,  
Secretary.

[P.R. Doc. 65-11038; Filed, Oct. 14, 1965; 8:50 a.m.]

CUMULATIVE LIST OF CFR PARTS AFFECTED—OCTOBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during October.

<b>3 CFR</b>	Page	<b>7 CFR—Continued</b>	Page	<b>14 CFR—Continued</b>	Page
<b>PROCLAMATIONS:</b>		<b>PROPOSED RULES—Continued</b>		<b>PROPOSED RULES—Continued</b>	
3674	12623	917	13063	43	13167
3675	12625	929	13013	65	12892, 13167
3676	12709	948	12644, 12735	71	12688,
3677	12927	970	13014		12735, 13078, 13168, 13169.
3678	12929	971	12785	77	12735
3679	12931	982	12539, 13143	91	13167
3680	12933	989	12686	145	13167
3681	13049	1008	12539	171	13169
<b>EXECUTIVE ORDERS:</b>		1009	12539	235	12889
June 24, 1914 (revoked in part by PLO 3840)	12884	1012	13143	241	12889
April 17, 1926 (revoked in part by PLO 3832)	12641	1030	13076	243	13077
2242 (revoked in part by PLO 3848)	13057	1031	13076	298	12891
3672 (revoked in part by PLO 3848)	13057	1032	13076	378	13077
7558 (revoked in part by PLO 3833)	12642	1033	12846		
10173 (see EO 11249)	13001	1034	12846	<b>15 CFR</b>	
10277 (see EO 11249)	13001	1038	13076	30	12881
10352 (see EO 11249)	13001	1039	13076	201	12535
11041 (amended by EO 11250)	13003	1051	13076	202	12535
11223 (see EO 11250)	13003	1061	13015	<b>16 CFR</b>	
11244 (superseded by EO 11248)	12999	1062	13076	13	12536, 12771, 12938
11245 (superseded by EO 11248)	12999	1063	13076	<b>17 CFR</b>	
11246 (corrected)	12935	1064	13015	240	12772
11248	12999	1067	13076	249	12772, 12775
11249	13001	1070	13076	<b>PROPOSED RULES:</b>	
11250	13003	1073	12847	1	13076
		1074	12847	<b>18 CFR</b>	
		1078	13076	141	12727
		1079	13076	152	12728
		1136	12736	260	12727
		<b>8 CFR</b>		<b>19 CFR</b>	
		103	12771	1	12680
		214	12771	8	13006
		332	13005	<b>20 CFR</b>	
		336	13005	395	12777
		<b>PROPOSED RULES:</b>		614	13120
		103	12785	<b>21 CFR</b>	
		<b>9 CFR</b>		8	13056
		<b>PROPOSED RULES:</b>		27	13134
		51	12684	120	12729
		78	12684	121	12637, 12670, 12730, 12777, 13007
		203	12686	130	13056
		<b>12 CFR</b>		141a	12637
		8	12535	144	12670
		218	12836	146a	12637, 12730
		<b>13 CFR</b>		148e	12537
		107	13005	148x	12537
		121	12640	<b>PROPOSED RULES:</b>	
		<b>PROPOSED RULES:</b>		27	13012
		121	13019	46	12949
		<b>14 CFR</b>		146a	12746
		25	13115	146b	12746
		39	12837, 13006	146c	12746
		71	12535,	146d	12746
			12661, 12724-12727, 12837, 12880,	146e	12746
			12881, 12937, 12938, 13006, 13054,	<b>22 CFR</b>	
			13056, 13118, 13119.	61	12639
		73	12727, 13056	131	12732
		75	12727, 13056	201	12941
		91	13120	<b>26 CFR</b>	
		95	12662	1	12730, 13134
		121	13120	39	12730
		127	13120	145	12939
		298	12666	147	12939
		<b>PROPOSED RULES:</b>		<b>PROPOSED RULES:</b>	
		21	13167	1	12564
		39	12687, 12845, 13015		
<b>3 CFR</b>					
<b>PROCLAMATIONS:</b>					
3674	12623				
3675	12625				
3676	12709				
3677	12927				
3678	12929				
3679	12931				
3680	12933				
3681	13049				
<b>EXECUTIVE ORDERS:</b>					
June 24, 1914 (revoked in part by PLO 3840)	12884				
April 17, 1926 (revoked in part by PLO 3832)	12641				
2242 (revoked in part by PLO 3848)	13057				
3672 (revoked in part by PLO 3848)	13057				
7558 (revoked in part by PLO 3833)	12642				
10173 (see EO 11249)	13001				
10277 (see EO 11249)	13001				
10352 (see EO 11249)	13001				
11041 (amended by EO 11250)	13003				
11223 (see EO 11250)	13003				
11244 (superseded by EO 11248)	12999				
11245 (superseded by EO 11248)	12999				
11246 (corrected)	12935				
11248	12999				
11249	13001				
11250	13003				
<b>5 CFR</b>					
213	12529,				
	12627, 12720, 12927, 13005, 13053, 13054.				
731	12661				
735	12529				
<b>6 CFR</b>					
530	12720, 13120				
<b>7 CFR</b>					
29	12627				
701	12661				
729	13051				
730	12627				
811	13010				
831	12628				
833	13124				
848	12534				
850	13125-13127, 13129-13131				
905	12635, 12636				
908	12636, 12879				
909	13052				
910	12637, 12879, 12937				
924	13132				
926	12534				
932	12629				
945	12834				
948	12534, 12635, 12724, 12834				
981	13053				
993	12535				
1421	12835, 13011				
1603	13132				
<b>PROPOSED RULES:</b>					
724	12845, 13012				
730	12684				
906	12735				
909	13143				

	Page		Page		Page
<b>28 CFR</b>		<b>43 CFR</b>		<b>46 CFR—Continued</b>	
Ch. I.....	12941	1720.....	12912	PROPOSED RULES—Continued	
<b>29 CFR</b>		2240.....	12912	206.....	12889
5.....	13136	2410.....	12912	251.....	12889
<b>31 CFR</b>		<b>PUBLIC LAND ORDERS:</b>		287.....	12889
316.....	12778	316 (revoked by PLO 3847).....	13057	<b>47 CFR</b>	
<b>32 CFR</b>		1461 (revoked in part by PLO		0.....	13058
7.....	12821	3838).....	12884	1.....	12778, 13058
43.....	12673	1600 (revoked in part by PLO		73.....	12711,
45.....	12941	3846).....	12947	12719, 12780, 12781, 12888,	13009
58.....	12639	2248 (modified by PLO 3836).....	12643	81.....	12778
157.....	13008	3832.....	12641	89.....	12778
518.....	13121	3833.....	12642	91.....	12778
750.....	12882	3834.....	12642	93.....	12778
753.....	12882	3835.....	12642	95.....	12778
<b>32A CFR</b>		3836.....	12643	97.....	12778
NSA (Ch. XVIII):		3837.....	12643	99.....	12778
AGE-1.....	12640	3838.....	12884	PROPOSED RULES:	
<b>33 CFR</b>		3839.....	12884	1.....	12688, 13016, 13018
3.....	12882	3840.....	12884	17.....	12688, 13018
6 (see EO 11249).....	13001	3841.....	12884	25.....	13016
202.....	12838	3842.....	12886	43.....	13016
203.....	12537, 12778, 13009	3843.....	12886	51.....	13016
204.....	12839	3844.....	12947	73.....	12688,
207.....	12838	3845.....	12947	12746, 12786, 13018, 13079,	13170
<b>37 CFR</b>		3846.....	12947	81.....	13079
1.....	12844	3847.....	13057	83.....	13079
<b>38 CFR</b>		3848.....	13057	<b>49 CFR</b>	
3.....	13009	<b>45 CFR</b>		6.....	12669
<b>39 CFR</b>		118.....	13138	95.....	12731, 12839
11.....	12841	130.....	12731	174a.....	13061
22.....	13137	801.....	12680	PROPOSED RULES:	
48.....	13137	<b>46 CFR</b>		52.....	13018
142.....	12641	272.....	12536	77.....	12543
143.....	12641	282.....	12536	131.....	12893
151.....	13137	286.....	12536	<b>50 CFR</b>	
<b>41 CFR</b>		292.....	12536	32.....	12536,
Ch. 7.....	12968	402.....	12680	12643, 12683, 12732, 12733, 12782-	
9-7.....	12941	403.....	12680	12784, 12886-12888, 12948, 13062,	
101-5.....	12883	533.....	12681	13137.	
		PROPOSED RULES:		33.....	12887
		201.....	12889		

1783	1784	1785	1786	1787	1788	1789	1790	1791	1792	1793	1794	1795	1796	1797	1798	1799	1800
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

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